

Module 1: Explaining Services Available to a Seller or a Buyer

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Module 1: Explaining Services Available to a Seller or a Buyer

Sellers, Buyers, and Brokerages

The relationship between a seller or a buyer and a brokerage can appear straightforward. A seller hires a brokerage to market and sell a property, while a buyer hires a brokerage to assist them in their search for a property to purchase. Although the role of a brokerage may be apparent, there are many aspects of accomplishing these goals for a seller or a buyer that are impacted by the specific type of relationship established. Sellers and buyers have options in terms of the services provided by a brokerage and the level of advice or assistance included in those services. A seller or a buyer can be either a client or a customer, depending on the service options they choose. Establishing this relationship is an important first step.

A salesperson must be able to explain how the duties and obligations of a brokerage will differ to a client or to a customer and be able to clearly communicate the relationship options available, so an informed decision can be made.

To check your understanding of this module, you must complete all the activities in the online module.

While navigating through the online module, click the **Legislation** button to view laws and regulations related to this module.

While navigating through the online module, click the **KMS** button to access the Knowledge Management System or visit the Module Resources to find the list of all the KMS assets for this module.

The contents of the thumbnail  and References from the module are added to support your learning throughout this Accessible PDF.

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Lesson 1: Fundamentals of Agency

This lesson introduces the terms used to describe an agency relationship including the parties in that relationship. The lesson details how an agency relationship can be created and how it can be terminated.



Under Ontario common law, agency is a relationship between a principal and an agent wherein the agent is authorized to represent the principal in dealing with a third party. Agency can apply to many fields such as relationships with lawyers, travel agents, stockbrokers, property managers, insurance agents, and real estate brokerages. However, the actual practice of agency varies according to the profession or trade and related legislation.

To understand an agency relationship formed in a real estate transaction, you should know the proper usage of terms. Common law uses different terminology than that used in REBBA. For example, common law uses the terms principal and third party, while these same parties are referred to as a client and customer under REBBA. An important aspect of the real estate profession is relationships, and agency is fundamental to creating those relationships.

Upon completion of this lesson, you will be able to:

- Define terms related to agency under common law and identify associated terms used within REBBA.
- Describe how an agency relationship can be created.
- Describe how an agency relationship can be terminated.

Throughout this lesson, you will participate in decision points to test your knowledge on the topics presented.

LEGISLATIVE TERM	COMMONLY USED MARKETPLACE TERM
<i>Representation</i>	Agency
<i>Representation Agreement</i>	Listing (Seller Agency) Agreement Buyer Agency Agreement
<i>Agreement (Conveyance of interest in Real Estate)</i>	Agreement of Purchase and Sale
<i>Multiple Representation</i>	Dual Agency
<i>Convey Offer</i>	Present Offer
<i>Acquisition/Divestiture by Registrant</i>	Purchase/Sale by Registrant

Agency and Agency Terms

In a real estate transaction, the parties involved would be a brokerage, a salesperson, a seller, and a buyer. The underlying relationship between these parties is based on the common law of agency. Agency is the relationship between two parties in which one party (the agent) accepts responsibility for representing the other party (the principal) in dealing with a third party.

Under REBBA, the equivalent term for agency is representation. The brokerage is the agent, and the salesperson is authorized to trade on behalf of the brokerage when representing the principal in a transaction. The seller or buyer could be the principal, for example:

- A seller (principal) and brokerage (agent) enter into an agency relationship when the brokerage is contracted to represent the seller in the marketing and sale of their property.

- A buyer (principal) and brokerage (agent) enter into an agency relationship when the brokerage is contracted to represent the buyer in the purchase of a property.

Let's look at how these roles are defined under agency.

The next few screen provides definitions of terms used to describe an agency relationship and to identify the roles and responsibilities in an agency relationship. For each of the agency law terms, the matching term found in REBBA is specified. This section of the module expands on topics introduced in a previous module.

Agency Relationship Roles

The parties to a real estate transaction are the seller and buyer; the brokerage and salesperson will assist the parties in negotiating the terms.

The following three sections contain information on roles in an agency relationship along with examples of how they apply in a real estate transaction.

Agent



An agent is authorized by a principal to represent the principal in business transactions with another party. An agent acts on behalf of a principal when performing professional services that can bring the principal into legal relationships with others.

For real estate purposes, an agent is a brokerage that is expressly or implicitly authorized to act for a principal.

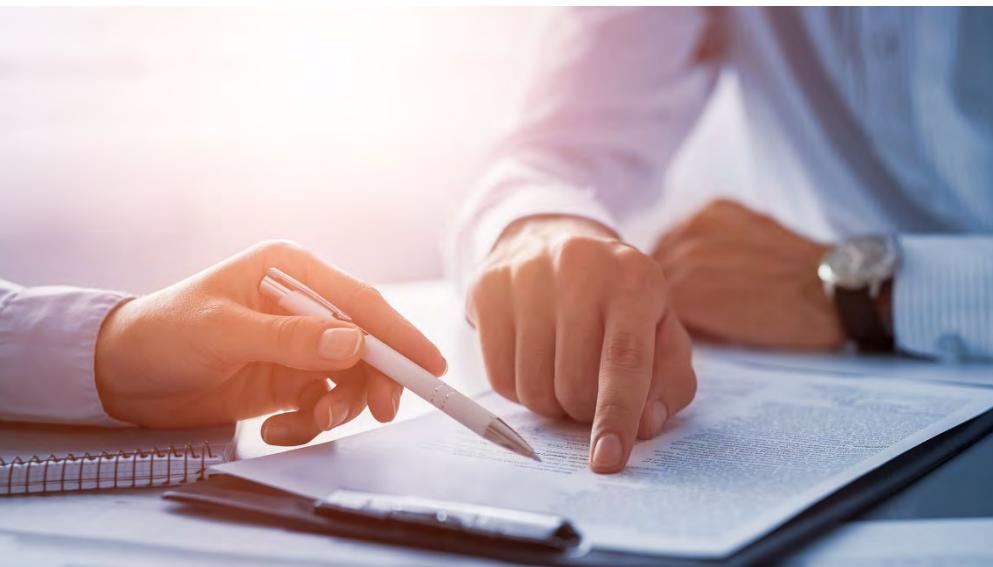
Brokers and salespersons are employed by brokerages and authorized to trade on behalf of their respective brokerages. As such, a salesperson lacks the legal capacity to trade on their own account and is viewed as having an employee/employer relationship with their brokerage.

Once an agency relationship is established, all brokers and salespersons employed by the brokerage fall under the same relationship and obligations established between the principal (seller or buyer) and the agent (brokerage). They must protect and promote the best interests of the principal.

Although consumers typically refer to salespersons as agents, it is actually the brokerage that is the agent.

In REBBA, the term “brokerage” is used to identify the agent who is authorized to trade in real estate on behalf of others.

Principal

A photograph showing two people's hands over a table, one holding a pen and pointing at a document, the other resting their hand on the document. A notebook and a pen are also visible on the table.

A principal is an individual who authorizes an agent to act on their behalf in an agency relationship. The principal provides information and lawful instructions to the agent regarding the transaction.

In REBBA, the term “client” is used to identify the principal and a client can be a seller or a buyer.

Example: When a brokerage represents a seller when listing a property for sale, the seller is known as the principal.

Example: When a brokerage represents a buyer when showing properties for sale, the buyer is known as the principal.

Third party



A third party is an individual who is not directly connected with a legal transaction but may be affected by it.

In REBBA, the term “customer” is used, and a customer/third party can be a seller or a buyer.

Example: A brokerage representing only a seller would consider a buyer as a third party or customer.

Example: A brokerage representing only a buyer would consider a seller as a third party or customer.

A third party may also be another individual otherwise involved in the transaction.

Example: A brokerage representing only a buyer, and the buyer's parents are providing the deposit. The buyer's parents would be considered a third party.

Agency Relationship Obligations and Authorities

Once an agency relationship has been established, it will invoke specific obligations on the agent while also providing authority to represent the principal.

The following two sections contain information to read the obligations owed and authority granted in an agency relationship along with examples of how they apply in a real estate transaction.

Fiduciary



Fiduciary generally refers to a relationship of trust with one or more parties. An agent (specifically, a brokerage) as a fiduciary has the legal obligation to act in the principal's (specifically, a seller's or buyer's) best interests.

As the relationship is fiduciary in nature, the agent's obligations to the principal include:

- Full disclosure—disclosure of all facts known
- Obedience—obey the lawful instructions of the principal
- Confidentiality—all information that is confidential will not be disclosed
- Competence—provide all services competently
- Accounting—responsible handling of all documents and funds related to the transaction

- Loyalty—promote and protect the principal's best interests at all times

In a real estate transaction, the brokerage—and by extension all salespersons—are required to uphold these obligations.

Example of Disclosure: A salesperson discovers a material fact that may impact their buyer client's decision to purchase a specific property. The salesperson fully discloses the information to the buyer so that an informed decision can be made.

Example of Confidentiality: A salesperson knows a seller is motivated to sell the property due to relocation. This information is not shared with any buyer who may ask why the seller is selling.

Authority



Authority is the legal power or right given by a principal, and accepted by the agent, to act on the principal's behalf in business transactions with a third party. Authority relating to a representation agreement is typically analyzed in terms of actual and implied authorities.

In real estate, the principal gives permission to the brokerage to offer the property for sale and to represent their best interests in a transaction.

Example of Actual Authority: A seller gives the brokerage authority to offer their property for sale.

Example of Implied Authority: The brokerage will determine the best marketing methods to offer the property for sale.

Understanding the Agency Relationship

In an agency relationship, the brokerage is representing a seller or a buyer. There may be times when a brokerage represents more than one seller or buyer during a transaction.

The following three sections contain examples of agency relationships.

Agency



Agency is the relationship between a principal and that person's agent. Once established, the agent has specific obligations owed to the principal under the common law of agency. In real estate, when a salesperson provides advice to a seller or to a buyer, this action creates an agency relationship.

In REBBA, the term "representation" is used, as the brokerage is deemed to "represent" the seller.

Example: A seller and salesperson agree that the brokerage will list and market their property for sale, and the salesperson provides advice on the appropriate listing price. The agency relationship establishes the brokerage as representing the seller.

Single agency



Single agency occurs when there is one agent (brokerage) representing one principal (seller or buyer) within a transaction with a third party.

In REBBA, single agency is referred to as “single representation”.

Example: A brokerage is representing a seller in the sale of a property. A buyer is being represented by a different brokerage when submitting an offer on the seller’s property.

Both the seller and the buyer are represented by different brokerages for the transaction, which results in each relationship being single agency/representation.

Dual agency



Dual agency occurs when there is one agent (brokerage) representing two or more principals (sellers and/or buyers) within the same transaction.

Under REBBA, dual agency is referred to as “multiple representation”.

There are several circumstances in which dual agency can occur, such as representing a seller and a buyer, or representing two competing buyers. These circumstances can also be referred to as concurrent representation, which is a legal term generally

referring to a brokerage representing two clients at the same time.

The underlying legal assumption is that all salespersons in a brokerage share each other's confidences. For example, this could include confidential information regarding the seller's motivation. Under dual agency, there is an inherent conflict of interest with the agent representing competing interests.

Example: A brokerage is representing a seller in the marketing of their property. A buyer is also represented by the same brokerage when submitting an offer on the seller's property. Both the seller and the buyer are represented by the same brokerage for the transaction which results in dual agency/multiple representation.

You will learn more about multiple representation later in the module.

Identify which of the following statements are true.

There are four options. There are multiple correct answers.

1	Under REBBA, agency is referred to as representation
2	Under REBBA, agent is referred to as brokerage
3	Under REBBA, principal is referred to as customer
4	Under REBBA, third party is referred to as client

Quincy wants to sell her property, so she contacts Natalie, a salesperson with ABC Real Estate Ltd. Quincy signs an agreement with the brokerage to list her property and represent her in the transaction. Natalie's co-worker is representing a buyer who is interested in the property. There is also a second buyer who is interested in the property, who is being represented by a different brokerage.

Identify which of the following statements are true.

There are five options. There are multiple correct answers.

1	The relationship is of single agency if the buyer working with Natalie's co-worker submits an offer.
2	The relationship is of dual agency if the buyer represented by the other brokerage places an offer on Quincy's property.
3	Implied authority allows the brokerage may select the marketing methods used to promote the listing.
4	A fiduciary relationship creates obligations on the brokerage, such as ensuring loyalty and confidentiality.
5	Actual authority allows the brokerage is authorized to list Quincy's property for sale.



Introduction to Creating an Agency Relationship

There are many ways in which a brokerage can enter into an agency relationship with a seller or a buyer. The most common way is by agreement, which can be either express or implied.

An express agreement can be written or verbal and creates a definite understanding between the parties of the agency relationship. Implied agreements can be created by the words and actions of one party, which leads the other party to believe there is an agency relationship when no formal acknowledgment of the relationship exists. Although common law does not require a written agreement, nor a particular form to be used, proper documentation of the relationship is required under REBBA.

A salesperson needs to be mindful that an agency relationship can be created by their words or actions. Once that relationship is created, there are many obligations and duties owed to the principal (client). It is important to explain the services being provided, so there are no misunderstandings by the seller or the buyer.

Documenting the relationship in writing will provide a clear record of the expectations and requirements of all parties. This is considered a leading practice for a salesperson. A salesperson should at all times avoid putting themselves in a position where the court would determine whether an agency relationship has been established under a particular set of circumstances.

Later in this module, you will look at different types of agreements between a brokerage and a seller or a buyer in more detail.

Agency Relationship by Agreement

An agency relationship can be created by an express agreement, which would occur when there is a definite understanding between the parties, such as a written or verbal agreement. Alternatively, the agency relationship can be implied based on the circumstances or actions of the agent and principal.

The following three sections contain examples of how an agency relationship can be created by agreement.

While navigating through the online module, click the **KMS** button in the Module Resources for tools and information on this topic.

Written agreement



A written agreement details the obligations of all parties and would be signed by the brokerage and the seller or the buyer.

A brokerage would document the agency relationship by using a Seller Representation Agreement or a Buyer Representation Agreement. There are requirements for a salesperson under the Code of Ethics whenever a representation agreement is required. Explanations of these agreements and the obligations of a salesperson are detailed in a later module.

Example: A buyer discusses their requirements for purchasing a home with a brokerage and agrees the brokerage will represent them. A representation agreement is then signed by the buyer and the brokerage confirming the details.

Verbal agreement



A verbal agreement could include many of the same aspects of a written agreement, only the details are not documented.

Example: A buyer has met with a salesperson and has verbally given them the authority to search for a property for them. The agreement is verbal only, but the salesperson has identified suitable properties and has shown these to the buyer even though there is no written agreement.

Implied agreement



An implied agreement can be unintentionally created based on the words and actions of the salesperson, the seller, or the buyer. If a seller or a buyer and the brokerage act in a manner that suggests an express agreement exists, an agency relationship is formed even though no formal understanding is reached between them.

Example: A salesperson and their friend are spending the day skiing. On their way to the ski hills, they notice a home that is listed for sale. The friend states the property is one they have longed to purchase. The salesperson provides advice about obtaining a mortgage, the amount of down payment required, and

follows up the next day with information on the property and copies of recent sales to help determine an offer price. Even though there is no agreement between the parties, an implied agency relationship is created based on their actions.

Additional Ways to Create an Agency Relationship

Most agency relationships are created by an express agreement, and a written document confirming the agency relationship is strongly encouraged. However, some situations do not allow for this to occur.

The following three sections contain examples of other methods by which an agency relationship is created and the potential challenges and considerations for each. Note that these examples illustrate principles under the common law of agency but do not reflect the requirements under REBBA.

By ratification	<p>An agency relationship by ratification is when the authority is granted retroactively. Ratification applies if the agent has acted either without authority or in excess of the authority granted. In such instances, when the principal subsequently agrees to be bound by such unauthorized acts, the agency relationship is ratified.</p> <p>Example: A property was previously listed for sale by a salesperson which did not sell. A few months later, this salesperson is approached by another salesperson asking if the seller would consider an offer from their buyer who viewed the property when it was listed. The salesperson obtains the offer and approaches the seller who agrees to sell. When the seller accepts the offer, the agency relationship has been created by ratification.</p>
By estoppel	<p>An agency relationship can be created by estoppel when a principal leads a third party to believe they are being represented by the agent, and that the agent has the authority to act on behalf of the principal.</p> <p>In real estate, a relationship can be created by estoppel when the seller or buyer gives the impression to a third party that they already have an agency relationship with a brokerage.</p> <p>There must be clear evidence that the seller or buyer has by words or actions indicated that the brokerage has the authority to act on their behalf.</p>

	<p>Example: A buyer is viewing a property that is being privately offered for sale. The buyer is concerned about the condition of the electrical system and makes enquiries with an electrician to inspect it.</p> <p>The buyer is not available to attend when the inspection is done but indicates to the electrician that a salesperson they know will be able to attend and has the authority to approve any expenses related to the inspection.</p> <p>An agency relationship by estoppel is created as the buyer has clearly indicated the salesperson—as an extension of the brokerage—has the authority to act on their behalf.</p>
By operation of law	<p>Operation of law creates an agency relationship where a duty created by circumstance is imposed on an agent to act on behalf of the principal, where previously no agency relationship existed. The agency relationship would be based on established legal principles rather than by a formal agreement.</p> <p>In real estate, operation of law is rare and happens in emergency situations.</p> <p>Example: A property manager has been retained to oversee the day-to-day operations of a property, but the owner clearly indicates major expenses must be approved first.</p> <p>After a violent storm, the property manager visits the site and discovers significant damage. Despite being unable to reach the owner, the property manager arranges for repairs to be made immediately to the structure at a significant cost, as the building was unsafe and would have put others at risk.</p> <p>Under operation of law, an agency relationship was established. Even though the actions were outside of what had been agreed to, the owner will be obligated to pay for the repairs even though they were not authorized.</p>

Marvin is a salesperson with ABC Real Estate Ltd. who has been working with several sellers and buyers this month.

In which scenario, would an agency relationship be created by ratification?

There are five options. There is only one correct answer.

1	Marvin explains the relationship options to Marta, who wants to sell her condominium. Marta signs a representation agreement with Marvin's brokerage.
2	Marvin has discussed property value with Jiten who is considering selling his cottage. Marvin discussed Jiten's property with a co-worker, who is currently working with a buyer interested in buying a cottage. Marvin states that Jiten has agreed to work with Marvin, should he or his brokerage obtain an offer on his property.
3	Marvin is not currently working with Bruno but knows that his dream is to own a waterfront property someday. When one becomes available, Marvin gathers the information and sends it to Bruno. Bruno and Marvin discuss his financial requirements for the purchase and decide to view the property. After the viewing, Bruno and Marvin review recent sales, discuss an appropriate offer price, and prepare an offer. Marvin presents the offer to the seller and listing salesperson.
4	Marvin has a buyer interested in purchasing a townhouse condominium in a specific complex. The buyer has signed an agreement of purchase and sale without viewing the townhouse. Marvin approaches several owners in the complex and explains that his buyer is serious and has already signed an agreement of purchase and sale. Several owners declined the offer; however one seller stated they discussed moving earlier that week. Marvin met with the owners, and they accepted the offer. Initially, Marvin did not have a listing authority, but the sellers adopted Marvin's actions.
5	Marvin, a salesperson, meets Bernie at a social function. Marvin gives him his business card and invites Bernie to call him if he has any questions related to listing his property for sale. A month later, Bernie decides to sell his property himself and places a "For Sale" sign on his front lawn. An interested buyer knocks on his door asking to view the property, but Bernie is now unsure about letting the individual come in. Bernie gives the buyer Marvin's business card and tells them to call Marvin for any information or to view the property.



Terminating an Agency Relationship

There are several ways in which an agency relationship is terminated, but these can be generally categorized as either by agreement or by operation of law. Termination does not disturb legal rights and obligations associated with the relationship unless otherwise agreed to by the parties. As a salesperson, you need to understand how agency relationships can be terminated and the continued obligations for you and the brokerage. This is important from both legal and relationship management perspectives.

Termination of an Agency Relationship by Agreement

At times, the termination of an agency relationship will automatically occur. Other times, specific actions by the parties involved must occur for the relationship to be terminated.

The following four sections contain examples of the ways an agency relationship can be terminated by agreement.

Completion or performance



Termination by performance is automatic once the obligations under the terms of the agreement are fulfilled.

In real estate, termination occurs when the sale is completed and not when an offer has been accepted between the seller and buyer. It is important to understand this distinction, as all fiduciary and regulatory obligations owed by the brokerage and salesperson continue uninterrupted and unaltered throughout this time period.

Example: A salesperson has represented a buyer in purchasing a home. The sale has now closed, and the buyer has possession of the property. The agency relationship that was created is now automatically terminated.

Mutual agreement



An agency relationship can be terminated by mutual agreement between the agent and the principal.

In real estate, both the brokerage and the seller or the buyer must mutually agree to terminate the relationship. Both the principal and the agent would document this termination by mutual agreement using a termination or cancellation form.

Example: A seller has listed their property for sale with a brokerage pending the seller being relocated to another province. The seller no longer wishes to sell their property as the relocation has been cancelled. Both the seller and the brokerage agree to terminate the listing agreement.

Expiry



An agency relationship is automatically terminated on the expiry date agreed to by the parties.

In real estate, a seller representation agreement or a buyer representation agreement is required to contain both an effective date and an expiration date. If the purpose of the agreement has not been fulfilled within the term of the agreement—or the agreement has not been extended prior to the expiry date—the agency relationship is ended.

Example: A seller and brokerage have contracted to list and market a property for sale, and the parties have agreed to a 90-day term for the listing agreement. The seller received one offer on the property during the listing period, but the offer was not accepted. With no extension to the agreement, the agency relationship is automatically terminated once the agreement has expired.

Revocation



The principal has the power to revoke the authority of the agent to act on their behalf. Revocation may be either lawful or unlawful.

In real estate, if the brokerage fails to fulfill their duties under the representation agreement, revocation would be lawful. However, if the brokerage has fulfilled their duties and the principal revokes their authority without justification, this is unlawful. The principal may then be liable for damages.

Example: A seller is approached by a buyer, who wishes to purchase the property but suggests a private sale to avoid remuneration being paid. The seller revokes the listing agreement with the brokerage and proceeds to sell the property privately. The brokerage has been fulfilling their duties, so the seller's attempt to revoke is unlawful. The brokerage could make a claim for remuneration as the property was sold during the term of the agreement.

Termination by Operation of Law

On the previous screen, you viewed four ways of terminating an agency relationship by agreement. An agency relationship can also be terminated by operation of law. This means the courts have determined over time that specific circumstances provide for the termination of the agency relationship.

The following three sections contain examples about the different ways an agency relationship can be terminated through operation of law.

Impossibility of performance



An agency relationship can be terminated because of the impossibility of performance. This occurs when the subject matter of the agency ceases to exist. Thus, the duties and contractual obligations of the principal and the agent can no longer be fulfilled under normal circumstances.

In real estate, unforeseen circumstances could arise, making it impossible for the brokerage to fulfill their obligations.

Example: A seller's house has burned down, and there is no longer a house to sell. In this instance, the seller and their brokerage would complete a cancellation of the listing agreement to confirm the termination of the agency relationship due to impossibility of performance.

Illegality



An agency relationship is terminated if the agency purpose or the agency relationship is unlawful. This could occur both from an agent's and a principal's perspective.

In real estate, if the brokerage has their registration under REBBA terminated, then it is no longer authorized to trade in real estate. As such, all agency relationships to which the brokerage is a party to are terminated.

Be aware that the relationship is between the brokerage and the seller or the buyer. If a salesperson's registration is terminated or if the salesperson transfers to another brokerage, it does not affect the existing agency relationship.

Example of Agent/Brokerage Perspective: A seller has listed their property for sale with a salesperson at a brokerage. The owner of the brokerage is retiring and has decided to cease operations as a brokerage. Once the brokerage's registration under REBBA has been terminated, all agency relationships with sellers and buyers are automatically terminated.

From the principal's perspective, if the authority to bind the principal was illegally obtained, the relationship would be terminated.

Example of Principal/Client Perspective: An agency relationship is terminated when the brokerage discovers that the seller's son fraudulently signed a seller representation agreement for his own gain after forging a Power of Attorney to act for his father. This is an example of revocation due to unlawful conduct of the seller's son.

Death, mental incapacity, or bankruptcy

The agency relationship generally terminates with the death, bankruptcy, or mental incapacity of either the agent or the principal.

In real estate, an exception to this can involve the principal's death, if there is a provision within an agreement to extend the obligations to the person's estate. In most cases, this provision would apply to a seller who has listed their property for sale rather than a buyer who is viewing properties for sale.

Example of Termination Due to Death: A brokerage is representing a buyer in their search for a property to purchase. During the term of the agreement, the buyer passes away. The agency relationship is terminated on the buyer's death.

Example of Termination Due to Mental Incapacity: A seller contacts a brokerage to list their property for sale. During the listing process, the salesperson notices they are forgetful and distracted. Several



weeks later, the seller's niece informs the salesperson that the seller has been diagnosed with dementia and needs full-time care. The agency relationship between the seller and the brokerage is terminated.

Example of Termination Due to Bankruptcy: A corporation has listed a property for sale due to financial difficulties. The property is listed with a brokerage, and during the listing, the corporation declares bankruptcy. The agency relationship is now terminated.



Continuation of Rights and Obligations After Termination

The termination of an agency relationship does not affect the rights of either party, or any associated obligations owed by one of the parties, unless the parties agree otherwise. As a salesperson, understanding the continuation of rights and obligations owed both to the principal and by the principal is an important part of the agency relationship the brokerage has with a seller or a buyer.

Continuing responsibilities to the principal are based on the fiduciary obligations owed under the relationship and include:

- Confidentiality of personal information
- Maintaining utmost loyalty
- Protecting the principal's best interests

A salesperson must ensure that all obligations owed to the principal following the termination of an agency relationship are adhered to; otherwise there could be legal ramifications.

While navigating through the online module, click the **KMS** button in the Module Resources for tools and information on this topic.

Identify the scenarios that are true regarding agency termination.

There are five options. There are multiple correct answers.

1	After looking at several properties, a buyer receives a notice from their employer that the company is restructuring, and their employment is terminated. The buyer no longer wishes to purchase a property, so the brokerage and the buyer sign a cancellation of the buyer representation agreement. In this scenario, the termination is due to mutual agreement.
2	A brokerage is representing a buyer in the purchase of a property. The transaction is completed, and the buyer gets ownership of the property. In this scenario, the termination is due to completion of performance.
3	A seller lists a property for sale with a brokerage. Prior to the property selling, the municipality expropriates the land for a road widening. In this scenario, the termination is due to illegality.
4	A brokerage lists a property for sale and confirms the ownership by reviewing a copy of the transfer/deed provided by the seller. It is later discovered that the document was fraudulent, and the seller is the tenant rather than the owner. In this scenario, the termination is due to impossibility of performance.
5	A salesperson lists a property for sale with a 60-day listing period. Two months later, the property has not sold, and the seller decides not to extend the agreement. In this scenario, the termination is due to expiry.

Neko, a salesperson with ABC Real Estate Ltd., has a property listed at 123 Market St. for sale that is owned by the Petersons. During the listing process, the Petersons shared with Neko there is an urgency to sell due to financial difficulties in making their mortgage payments. Neko, while conducting an open house at Petersons' property, meets Sheryl who has expressed some interest in the property and asks Neko why the sellers are selling. Neko, who is mindful of his fiduciary obligations to the seller, explains the owners reasons for selling is confidential and he is not at liberty to disclose such information. The property does not sell and the listing expires. Sheryl, still interested in buying a property, visits an open house at 130 Market St., hosted by Neko. During her visit, she asks Neko if the house at 123 Market St. had sold as the "For Sale" sign had been removed. Neko commented that it had not and as per his knowledge it was no longer on the market. Sheryl is persistent in asking Neko why the owners of 123 Market St. were selling and if it was because of financial problems.

How should Neko respond to Sheryl's statement regarding the Petersons?

There are four options. There are multiple correct answers.

1	"The Petersons were having some troubles but are now looking at other options. I'm not sure if their property is still available to purchase."
2	"The Petersons' property has many similar features to this one. Why don't you look through the house and then we can discuss any questions you may have."
3	"The owners of 123 Market St. may decide to relist their property, if they do, would you like me to contact you?"
4	"If you sign a representation agreement with me, I owe you full disclosure. Only then would I be able to discuss this."

Congratulations, you have completed the lesson!

There are six sections on this page with a summary of the key topics that were discussed in this lesson.

Agency terms and the equivalent terms within REBBA	<p>In order to fully understand obligations both under the common law of agency and REBBA, it is important to know the applicable terms used.</p> <p>The terms used under agency are followed by terms used under REBBA:</p> <ul style="list-style-type: none">• Agency is equivalent to the term representation. This is the relationship between the parties that is fiduciary in nature. A brokerage will “represent” the party in an agency relationship.• Agent refers to a brokerage representing a seller or a buyer. The term agent is used incorrectly when referencing a salesperson. The term agent identifies the brokerage.• Principal is equivalent to the term client. This is a seller or a buyer who is represented by a brokerage.• Third party is equivalent to the term customer. This is an individual who is not directly connected with a legal transaction but may be affected by it. A brokerage representing only a seller would consider the buyer as the customer. A brokerage representing only a buyer would consider the seller as the customer.• Single agency is equivalent to the term single representation. This identifies a relationship where there is one agent (brokerage) and one principal (seller or buyer).• Dual agency is equivalent to the term multiple representation. This identifies a relationship where there is one agent (brokerage) and more than one principal (sellers and/or buyers) in the same transaction.
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Fiduciary	<p>An agency/fiduciary relationship created between a brokerage and a seller or a buyer involves fiduciary responsibilities by the agent. The brokerage and salesperson's obligations in a fiduciary relationship include:</p> <ul style="list-style-type: none"> • Full disclosure • Obedience • Confidentiality • Competence • Accounting • Loyalty <p>The brokerage—and by extension, all salespersons—are required to uphold these obligations.</p>
Authority	<p>Authority is the permission granted to the agent by the principal. A seller or a buyer gives the brokerage express authority to represent their interests in a real estate transaction. Implied authorities are an extension of the express authority. Additional details regarding authority are detailed in the next lesson.</p>
Creating an agency relationship	<p>An agency relationship can be created in several ways—</p> <p>By agreement:</p> <ul style="list-style-type: none"> • A written agreement details the obligations of all parties and would be signed by the brokerage and the seller or buyer. • A verbal agreement could include many of the same aspects of a written agreement, only the details are not documented. • An implied agreement can be unintentionally created based on the words and actions of the salesperson, seller, or buyer. • If a seller or buyer and the brokerage act in a manner which suggests that an express agreement exists, an agency relationship is formed even though no formal understanding is reached between them. <p>By ratification:</p> <ul style="list-style-type: none"> • An agency relationship by ratification is created retroactively if both a principal and an agent later sign an agreement or give formal consent to an

	<p>action previously taken without explicit permission—thus ratifying the agent's actions.</p> <p>By estoppel:</p> <ul style="list-style-type: none"> An agency relationship can be created by estoppel when a principal leads a third party to believe that they are being represented by the agent, and that the agent has the authority to act on behalf of the principal. <p>By operation of law:</p> <ul style="list-style-type: none"> An agency relationship is created by operation of law when duty, created by circumstance, is imposed on an agent to act on behalf of a principal, where previously no agency relationship existed. The agency relationship would be based on established legal principles rather than by a formal agreement. <p>A leading practice for creating any agency relationship is ensuring there is a written agreement. A written agreement will help to ensure there is no confusion, misunderstanding, or miscommunication with the seller or the buyer as to the authority granted, services provided, or the duties and obligations owed by all parties.</p>
Termination of an agency relationship	<p>An agency relationship can be terminated by:</p> <ul style="list-style-type: none"> Completion of performance: Termination by performance is automatic once the obligations under the terms of the agreement are fulfilled. Mutual agreement: An agency relationship can be terminated by mutual agreement of the agent and the principal. Expiry: An agency relationship is automatically terminated on the expiry date agreed to by the parties. Revocation: The principal has the power to revoke the authority of the brokerage to act on their behalf. Revocation may be either lawful or unlawful. Impossibility of performance: An agency relationship can be terminated because of the impossibility of performance or frustration. This is when the duties and contractual obligations of the principal and the agent cannot be fulfilled under normal circumstances.

	<ul style="list-style-type: none"> • Illegality: An agency relationship is terminated if the agency purpose or the agency relationship is unlawful. This could occur both from an agent and a principal's perspective. • Death, mental incapacity, or bankruptcy: If either the principal or the agent suffers death, becomes mentally incapacitated so as to be unable to continue the relationship, or becomes bankrupt, the agency relationship is terminated.
Continuation of rights and obligations	The termination of an agency relationship does not affect the rights of either party, or any associated obligations owed by one of the parties, unless the parties agree otherwise. As a salesperson, understanding the continuation of rights and obligations owed both to the principal and by the principal is an important part of the agency relationship the brokerage has with a seller or buyer.

Lesson 2: Brokerage Authority and Principal's Duties

This lesson describes the authority granted to a brokerage by a seller or a buyer, the limitations to that authority granted, and the obligations owed by the seller or buyer when they are being represented by the brokerage.



To build upon the previous lesson where you learned about the fundamentals of an agency, this lesson will expand on key aspects of an agency relationship by exploring the details and examples relating to authorities, obligations, and limitations.

Upon completion of this lesson, you will be able to:

- Describe the authority granted to a brokerage by a principal.
- Describe the limitations to the authority granted to a brokerage by a principal.
- Describe the principal's duties to the agent.

Throughout this lesson, you will participate in decision points to test your knowledge on the topics presented.



Granting Authority

The most common method of entering into an agency relationship with a seller or a buyer is by express agreement. Leading practice would be to document that agreement in writing. Once the agency relationship has been created, the principal grants authority to the agent to perform certain activities on their behalf.

This authority is legally defined as a right or permission granted by one person to another to act. From a real estate perspective, a representation agreement would be used to document the agency relationship and also detail the authority granted to the brokerage.

The next few screens explores the authority a seller or a buyer would grant to a brokerage under an agency relationship.



Authority Granted by a Principal

Typically, an agency relationship between the agent (Brokerage) and the principal is documented in a buyer or a seller representation agreement.

In real estate, there are two types of authority – express (Sometimes referred to as actual) and implied. Express authority is the authority granted by the principal (Buyer or seller) intentionally to the agent (Brokerage) and is outlined in the terms of the representation agreement. Implied authority is assumed given the nature of the relationship; this allows the agent (Brokerage) to complete the task properly, efficiently and competently.

The following two sections contain information on express authorities granted to a brokerage by a seller or a buyer.

Express authority granted by a seller	<p>A seller grants express authority to a brokerage to offer their property for sale. A representation agreement must contain certain information to comply with REBBA, but specific wording can vary. An agreement will explicitly outline the main tasks the brokerage is to carry out.</p> <p>A seller's express authorities can also include:</p> <ul style="list-style-type: none">• Allowing buyers to fully inspect the property.• Placing a "For sale" or "Sold" sign on the property.• Giving the exclusive authority to make all advertising decisions to the brokerage.
Express authority granted by a buyer	<p>A buyer grants express authority to the brokerage to seek out suitable properties for the buyer to view.</p> <p>In addition to providing the brokerage with express authority to locate a suitable property, a buyer's express authorities can also include:</p> <ul style="list-style-type: none">• The brokerage's entitlement to receive and retain remuneration paid by the seller or the listing brokerage.• Providing information as needed to third parties retained by the buyer to assist in a transaction.

Implied Authorities

Implied authorities grant the agent the ability to take actions and make decisions as an extension of the express authorities granted by the principal. Activities undertaken under implied authorities are consistent with the express authority granted, such as those authorities identified in a seller or a buyer representation agreement. Implied authorities allow the agent to undertake incidental activities and perform other acts usual to a real estate transaction, which are not specifically detailed in the agreement.

The following two sections contain information on seller implied authorities and buyer implied authorities as they relate to a representation agreement.

Seller representation implied authorities



A seller grants express authority to the brokerage to list and market their property for sale and to advertise the property.

An implied authority allows the brokerage to determine the advertising specifics, such as arrangements for advertising materials and media placements.

Additional implied authorities by a seller can include:

- Delegation: The brokerage delegates various activities to brokers and salespersons employed by that brokerage to carry out the seller's instructions.

- Showings/Negotiations: The brokerage conducts showings to prospective buyers and assists in negotiations.
- Deposit/Trust Account: The brokerage receives a deposit from a third party relating to an agreement to purchase the seller's property and deposits these funds into the real estate trust account.
- Notices: The brokerage has certain implied authorities involving receipt of notice. For example, a notice received by a brokerage that a buyer has fulfilled a condition in an offer is deemed to be notice received by the seller.

Certain implied authorities are further supported by provincial legislation (such as the authority to delegate to employed, appointed, or authorized brokers and salespersons, and the authority upon receipt of a deposit for the placement of same into the brokerage's real estate trust account).

Buyer representation implied authorities



A buyer grants express authority to the brokerage to locate suitable property within a geographic area.

The implied authority allows the brokerage to select the appropriate methods to locate properties for viewing.

Additional implied authorities by a buyer can include:

- Delegation: The brokerage delegates various activities to brokers and salespersons employed by that brokerage to carry out the buyer's express instructions.
- Relevant Facts/Presentation: The brokerage obtains and presents relevant facts for consideration.
- Negotiations: The brokerage arranges showings and assists in negotiations.
- Notices: The brokerage has certain implied authorities involving receipt of notice. For example, a notice received by a brokerage that an offer has been accepted is deemed to be notice received by the buyer.

Yusong, a salesperson with XYZ Realty Ltd. is working with Amanda, who is looking to buy a house. Amanda is about to sign a buyer representation agreement. But first, Yusong will explain the actual and implied authorities associated with their relationship by providing examples of what activities he would complete on Amanda's behalf.

Identify which of the given Yusong's explanations would fall under the implied authority.

There are four options. There are multiple correct answers.

- | | |
|---|--|
| 1 | Yusong explains he will review many of the property listings from a local listing service and then select the most appropriate five properties for Amanda to initially view. |
| 2 | Yusong explains he will gather and provide information regarding different school districts to Amanda to help her when considering which properties could be suitable for her to purchase. |
| 3 | Yusong explains the representation agreement is between herself and his brokerage, and he will be the individual assisting Amanda in her search for a property. |
| 4 | Yusong explains Amanda is retaining the brokerage for the next 60 days to locate properties meeting her criteria. |



Limitations to a Brokerage's Authority

You have examined the differences between express and implied authorities, which are fundamental to ensuring all parties understand the permissions granted and your role as their salesperson. While brokerages can pursue reasonable activities extending from express authority in a representation agreement, legal precedents and common practices have formed certain limitations to brokerage authority. Even though a particular authority is granted (for example, to market a property or to seek out an appropriate property) that authority is limited.

During initial meetings and throughout the agency relationship, a salesperson will clearly communicate the activities undertaken to fulfill the goals of the relationship. Understanding the limitations to these activities is equally important.

See the next screen for a detailed discussion of the limitations to a brokerage's authority.

Brokerage Authority Limits

If an agent acts outside of the scope of authority granted, the agent could be liable to the principal for any injuries or for breach of contract. As such, a brokerage must ensure the activities undertaken by a salesperson when representing a seller or a buyer fall within the authority granted.

The following four sections contain examples of limitations to brokerage authority.

Contract



Brokerages or salespersons do not have the authority to sign a contract on behalf of a principal, unless precise and clear authority is granted.

Since signing on behalf of a principal could place a brokerage in a position with legal ramifications, a brokerage would not approve a salesperson participating in any such activity.

Example: An offer has been received on a seller's property listed with a brokerage. The seller is currently out of the country and would like to accept the offer but is not available to sign the offer before it expires. The seller asks the salesperson to accept the offer on their behalf.

The salesperson would decline the seller's request and could address the seller's concerns in other ways, such

as asking the buyer to extend the time period associated with acceptance of their offer.

Delegation of duties



As the agency relationship is established between the principal and the agent, delegation of duties to any salesperson or broker employed by the brokerage is acceptable.

However, delegation of duties by the listing brokerage to use other brokerages in the marketing/selling process is neither presumed nor implied under agency law because the agency obligation is particular to that brokerage. For other brokerages to participate in the marketing/selling process, this authority must be specifically provided for in the agreement. A brokerage would document this authority in a listing agreement.

Example: A brokerage obtains a listing and delegates the duties owed to the seller to a salesperson employed by the brokerage. The seller has also agreed that other brokerages may participate. This allows co-operating brokerages to show the property to prospective buyers and obtain an offer.

Purchase price



Brokerages have no implied authority to receive all or part of the purchase price; they can only receive a deposit relating to the purchase.

The deposit is now considered monies held in trust for the seller. When a deposit is received by a brokerage (related to a transaction), the brokerage holds the deposit in trust. Upon completion of the transaction, the buyer receives a credit towards the purchase price for the deposit amount.

Example: A listing brokerage receives a \$10,000 deposit from a buyer related to an offer accepted on a seller's property. The brokerage places the deposit into its real estate trust account and the funds are held in trust pending the completion or termination of the agreement. When the transaction has been completed, the buyer's deposit is shown as a credit to the purchase price and the deposit funds are now held in trust for the seller. Typically, the brokerage then applies the deposit towards the remuneration owed by the seller to the brokerage.

Expenses



Brokerages cannot incur expenses on behalf of the principal or seek reimbursement without express authority. Typically, an agreement with a principal will identify the remuneration paid to the brokerage, which includes any expenses incurred. If the principal requests extra services, such as alternate forms of advertising, the agent can seek additional reimbursement, only if agreed to by the principal.

Example: A brokerage agrees to list a property for sale and provides the seller with a marketing plan. The seller would like additional signage, the home staged by a professional, and a property inspection report completed. The brokerage and the seller agree that the seller will reimburse the brokerage for the additional expenses.

When a brokerage is granted the authority to represent a principal in a transaction, it comes with many obligations and duties. A salesperson is an extension of the brokerage and is required to conduct their daily activities within the limitations to the authority granted to the brokerage. All actions must be in compliance with legal precedents and common practices under agency law.

Which of the given scenarios could exceed the limits of authority granted to a brokerage?

There are five options. There are multiple correct answers.

1	A brokerage is representing a seller, who is currently in offer negotiations with a buyer. The salesperson has been notified that the buyer has accepted the seller's offer, which means the seller is deemed to have received the notice as well.
2	A seller has specifically chosen a salesperson to list their property for sale as they are experienced in this type of property. The salesperson will be going on holiday and has discussed with the seller that another salesperson from their brokerage will oversee the listing during this time. The seller agrees verbally but does not sign a new listing agreement identifying this.
3	A seller's listing with a brokerage has expired. The seller calls the salesperson and indicates they would like to extend the listing but not lower the asking price. The salesperson quickly enters property details into the local listing service to activate the listing as there were no changes to the terms.
4	A salesperson works with a professional stager to prepare a seller's home prior to the marketing of the property. Afterwards, they advise the seller they will need to be reimbursed for the fees charged by the staging company.
5	A salesperson obtains their seller's consent to place a "For Sale" sign on the property. When the property is sold, the salesperson changes the sign to read "Sold".



Principal's Duties to the Agent

The principal will owe certain duties to the agent when entering into an agency relationship. These do not include any fiduciary or regulatory obligations but rather stem from the general obligations under the common law of agency. From a real estate perspective, an important extension of explaining the obligations and duties, the brokerage owes to the seller or buyer is to also clearly communicate and document the duties owed by that party to the brokerage. A misunderstanding at the onset of an agency relationship can have a negative impact on the brokerage and salesperson's ability to fulfill their obligations.

The principal owes the given duties to the agent:

1. Duty of indemnification
2. Duty of remuneration
3. Duty regarding any other obligations agreed to

The next few screens describes each of these duties in more detail.

Duties the Principal Owes to the Agent

As a general rule of agency, the principal owes the agent indemnification and remuneration. In addition, the principal owes any other obligations agreed to, which are typically documented in an agreement between the principal and the agent. In real estate, the seller or buyer's obligations to the brokerage would be documented in a representation agreement.

The following three sections contain examples of the duties the principal (seller or buyer) owes to the agent (brokerage) within an agency relationship.

While navigating through the online module, click the **KMS** button in the Module Resources for tools and information on this topic.

Duty of indemnification	<p>The agent must act according to the lawful instructions of the principal, and in doing so, may not be held responsible for any liability, claim, loss, cost, damage, or injury resulting from these acts. As a general rule of agency, the principal must compensate an agent for loss or damage incurred in carrying out lawful acts.</p> <p>Seller perspective: The brokerage may be indemnified should the seller breach any warranty or representation made by the seller.</p> <p>Buyer perspective: The brokerage may be indemnified should any latent defect to the land or improvements not be identified by the brokerage, as the buyer will be required to make their own enquiries to confirm the condition of the property.</p> <p>Indemnity may also extend to reimbursement for expenses incurred. However, by the terms of most real estate representation agreements, the right to reimbursement does not generally apply when, for example, real estate brokerages receive a remuneration, unless specifically stated in the agreement. See additional information under the topic "Duty of remuneration".</p>
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	<p>The principal has no duty to indemnify an agent who acts unlawfully or negligently or is in breach of duty.</p> <p>Seller example: A buyer sued both the seller and the seller's brokerage because five expensive appliances stated to be included in the purchase price within the agreement of purchase and sale were removed from the property by the seller on completion of the transaction. The court held that the seller must indemnify the brokerage and assume the full liability for the loss suffered by the buyer.</p>
Duty of remuneration	<p>The principal, upon signing the agreement, is obligated to pay the brokerage for the services agreed to and provided as part of the agency relationship between the parties. The payment is typically the remuneration paid to the agent for services rendered.</p> <p>For the duty of remuneration to apply, the agent must be duly authorized by provincial legislation to trade in real estate, and the terms of the representation agreement must be fully met. The brokerage's remuneration must be specified in the representation agreement.</p> <p>Sample wording of brokerage remuneration provision in a seller representation agreement: "In consideration of you listing the property, I agree to pay the listing brokerage a remuneration rate of 5% of the sale price of the property or for any valid offer to purchase or lease the property from any source whatsoever obtained during the Listing Period and on the terms and conditions set out in this agreement OR such other terms and conditions as I may accept." You will learn more about representation agreements later.</p>
Duty regarding any other obligations agreed to	<p>The principal must perform any other obligations as agreed to by both parties in the representation agreement. It is strongly recommended that any other obligations be formally documented in the representation agreement rather than agreed to verbally in order to avoid any misunderstandings.</p> <p>Examples of other obligations typically agreed to by a seller as a principal include:</p> <ul style="list-style-type: none"> • Payment of applicable taxes (such as HST on any remuneration paid)

- Agreement to maintain insurance on the property, until the sale has been completed
- Referral of enquiries to the brokerage, if a potential buyer contacts the seller directly for information regarding the property
- Paying remuneration, if the sale does not close due to their default or neglect
- Right of the brokerage to apply any deposit against remuneration

Examples of other obligations typically agreed to by a buyer as a principal include:

- To refer all properties of interest which the buyer may wish to view to the brokerage
- Entitlement of the buyer's brokerage to receive/retain remuneration from the seller's brokerage or the seller
- To pay remuneration, if the sale does not close due to their default or neglect

Which of these scenarios demonstrate compliance with a duty typically owed by a seller or a buyer as a principal to a brokerage?

There are three options. There are multiple correct answers.

1	A buyer attends an open house where the seller is privately selling their home rather than listing it with a brokerage. The seller does not agree to pay any remuneration to the buyer's brokerage. The buyer is interested in purchasing the property and contacts their salesperson to arrange for another viewing.
2	A seller has listed their property with a brokerage and is promoting the new listing at work. A co-worker is interested in purchasing the property but states they have been working with another brokerage. The seller advises their salesperson of the interested co-worker and states they have now fulfilled their obligations to refer the buyer, but if the sale results from their introduction of the property, remuneration is owed only to the buyer's brokerage.
3	A buyer viewing a property with a salesperson is unaware of an unused buried oil tank, which remains on the site. The seller did not disclose this to the brokerage and specifically warranted in the agreement of purchase and sale that there was no buried oil tank. After the transaction closes, the buyer discovers the buried oil tank and takes legal action against the seller.

Congratulations, you have completed the lesson!

There are three sections on this page with a summary of the key topics that were discussed in this lesson.

Brokerage authority	<p>Authority is the legal power or right given by the principal and accepted by the agent to act on the principal's behalf in transactions with a third party. The actual authorities are typically granted in a written document, which describes the permissions granted to the agent. A seller typically gives express written authority to offer their property for sale. This differs from implied authorities that are assumed given the nature of the relationship. Implied authorities are additional assumed authorities allowing the agent to undertake incidental activities consistent with an authority granted expressly. An example of implied authority would include the determination of advertising specifics to market the seller's property. Understanding the authority granted to the brokerage and the implied authorities that it entails is required by a salesperson to carry out appropriate tasks on behalf of the brokerage.</p>
Limitations to brokerage authority	<p>There are limitations to brokerage authority with regards to:</p> <ul style="list-style-type: none">• Contracts: A brokerage is not authorized to sign a contract on a principal's behalf.• Delegation of duties: A brokerage can delegate duties to employed salespersons but must obtain specific permission to delegate any duties to another brokerage.• Purchase price: A brokerage may obtain a deposit from a third party but may not receive all or part of the purchase price.

	<ul style="list-style-type: none"> Expense: A brokerage cannot incur expenses or seek reimbursement without express authority. <p>A salesperson must be able to identify and put into practice the limitations to brokerage authority in order to ensure any action they take remains compliant.</p>
Principal's duties to the agent	<p>The principal's duties to the agent include:</p> <ul style="list-style-type: none"> Duty of indemnification: A brokerage will not be liable for certain lawful actions performed. Duty of remuneration: A brokerage will be compensated as agreed to for performing the duties under the agreement. Duty regarding any other obligations agreed to in a representation agreement: A brokerage will be owed additional obligations to which the parties have agreed.

Lesson 3: Duties and Obligations of a Salesperson

This lesson describes a salesperson's duty of care and general obligations owed to a client and to a customer, as well as the fiduciary obligations owed to a client only. The lesson also identifies the obligations owed to a client and to a customer under the *Real Estate and Business Brokers Act* (REBBA).



This lesson describes and distinguishes between the duties and obligations a brokerage and salesperson owe to a client and those owed to a customer. These will be separated into various categories:

- Duty of care: At all times, a salesperson must conduct themselves in accordance with a standard of care expected of a knowledgeable salesperson. However, the extent of that duty will differ significantly between a client and a customer.
- General obligations: Various obligations are owed to a client under the common law of agency, however, only some of the obligations are owed to a customer.
- Fiduciary obligations: A brokerage owes fiduciary obligations to a client, as these stem from the agency relationship. Fiduciary obligations are not owed to a customer.
- Regulatory obligations: Specific obligations under REBBA are described. Only a select number of obligations relating to specific activities with sellers and buyers are being detailed. We will revisit regulatory obligations in subsequent modules regarding the listing and marketing of properties and when showing properties and interacting with buyers.

As a salesperson, you will need to differentiate between the obligations owed to a client and those owed to a customer to ensure the appropriate level of service is provided. A salesperson's words and actions can create an agency relationship, so understanding how this will differ for a client or a customer will prevent an agency relationship from being created where one is not intended.

Upon completion of this lesson, you will be able to:

- Describe a salesperson's duty of care owed to a client and to a customer.
- Describe the obligations owed to a client and to a customer under agency law.
- Describe the fiduciary obligations owed to a client.
- Describe the obligations owed to a client and to a customer under REBBA.

Throughout this lesson, you will participate in decision points to test your knowledge on the topics presented.



Duty of Care

The phrase “duty of care” refers to the standard of care and skill provided by a salesperson to a client or a customer.

A salesperson, whether new to the profession or not, must act within a standard expected of a knowledgeable, proficient salesperson. Perfection is not required, rather the standard is based on how ordinary and prudent salespersons would conduct themselves under similar circumstances. An important exception involves a salesperson, who claims to possess special expertise or experience. This salesperson’s conduct will be assessed according to that higher standard.

Failure to provide an appropriate level of care as a salesperson can result in liability for professional negligence. When providing information or performing functions on behalf of a customer, a salesperson must understand the limitations, otherwise an unintended client relationship could be established, which can lead to misunderstandings or legal ramifications.

Next, we will detail the requirements for duty of care and how they differ for a client and a customer.



Duty of Care

Duty of care is owed to both clients and customers.

The following three sections contain information on a brokerage's duty of care, and how your obligations to a client and a customer will differ.

While navigating through the online module, click the **KMS** button in the Module Resources for tools and information on this topic.

Duty of care owed to a client	<p>Duty of care to a client applies to everything a brokerage and salesperson does for the client, and all services are to be provided in a conscientious and competent manner.</p> <p>One distinguishing aspect of an agency relationship is related to providing advice. Any information provided when giving advice by the brokerage or salesperson—whether</p>
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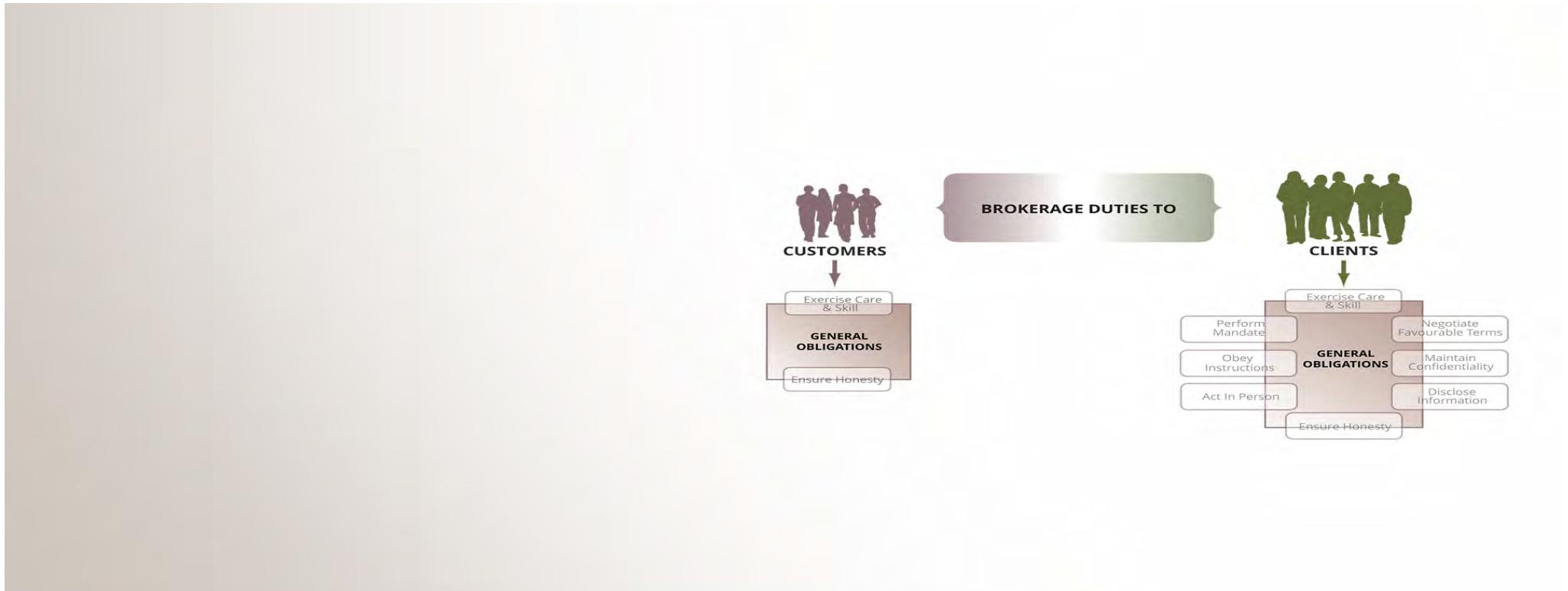
	<p>written or verbal and no matter how honestly provided—can give rise to action for damages due to negligence.</p> <p>Negligence results from not providing competent services and/or not completing the required due diligence.</p> <p>Example: The seller asks for advice on whether or not to accept an offer. The salesperson meets an acceptable duty of care by providing input based on knowledge of existing sales, reviewing the benefits and drawbacks of the offer, pointing out any particular difficulties that might be encountered (such as the removal of any conditions), and answering seller questions as the need arises when reviewing the agreement.</p>
Duty of care owed to a customer	<p>Duty of care owed to a customer is limited and involves ensuring that honesty, fairness, and integrity is exercised, that information provided is accurate, and that any services the brokerage agrees to carry out on behalf of the customer are thorough and performed with reasonable care and skill.</p> <p>A brokerage and salesperson must also ensure the obligations regarding disclosure and privacy are followed. Certain disclosures must be made to a customer. These include but are not limited to:</p> <ul style="list-style-type: none"> • Any material facts known or that ought to be known by the salesperson • Any direct or indirect interest held by the salesperson or brokerage related to a trade <p>A salesperson must also ensure any obligations to protect the privacy of the customer and any personal information are complied with.</p> <p>It is important for a salesperson to be conscious of limiting their services to providing information only, not advice. Otherwise, the act of providing advice can unintentionally alter a customer relationship to that of a client.</p> <p>As noted earlier in the module, this would result in creating a potential conflict of interest when a brokerage is representing more than one client in a transaction (known as multiple representation).</p>

	<p>Example: The buyer, as a customer, asks for advice regarding the condition of the seller's home. The salesperson states that the seller is their client, but that, in all honesty many buyers seek out a home inspector, as the responsibility rests with the buyer to satisfy themselves regarding the condition of the property.</p>
Ensuring duty of care as a salesperson	<p>A duty of care is implied when one party seeks information from another, who has special skills, such as a seller or buyer requesting advice or information from a salesperson. A salesperson is in a position of trust and must exercise due care when giving advice or providing information since they should know this will be relied upon.</p> <p>A salesperson can avoid problems relating to duty of care by the given guidelines:</p> <ul style="list-style-type: none"> • Seek advice: Be aware of the limits to your knowledge and experience, seek advice or assistance when needed, and recommend the client or customer obtain legal or other appropriate advice. • Accuracy in documentation: Make certain that contracts are properly worded, documents are delivered appropriately, and persons signing are aware of associated implications of the contract or document. • Be informed: Stay up-to-date on relevant issues impacting property ownership in your trading area, such as zoning and taxation. • Make inquiries: Do not rely on information provided by others without completing proper investigations and due diligence to confirm the accuracy of the information.

Identify which of the given circumstances are examples of duty of care in a real estate transaction.

There are four options. There are multiple correct answers.

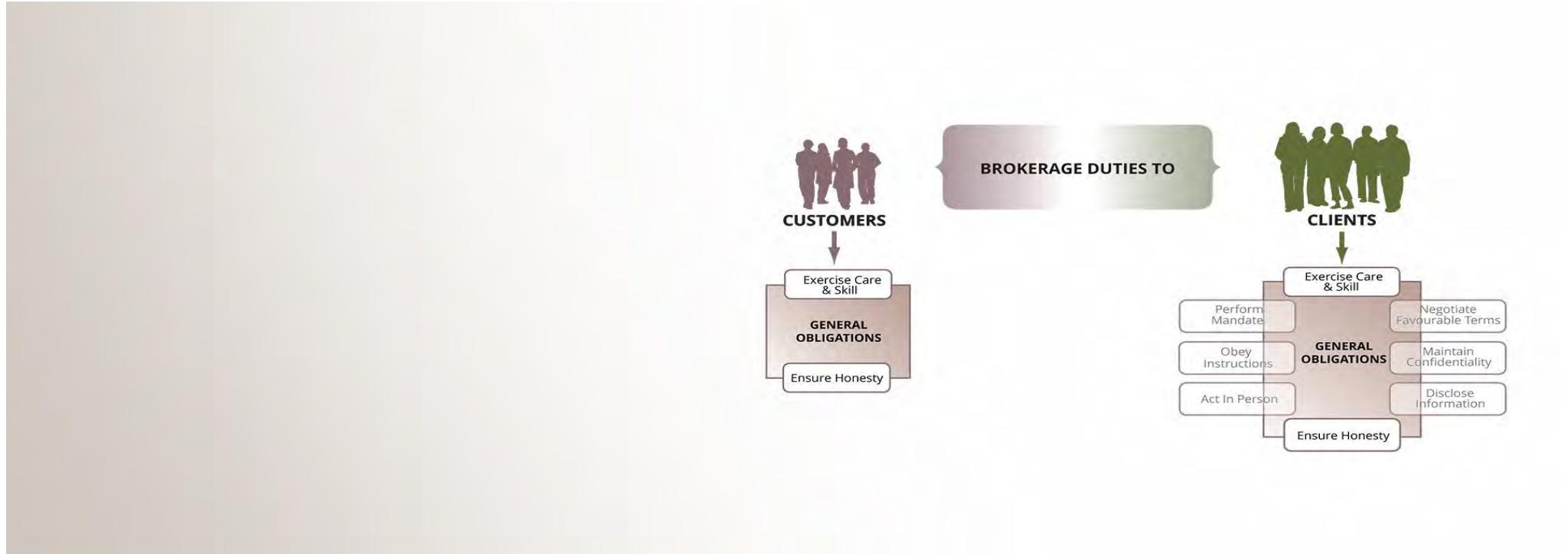
1	A salesperson completes a listing agreement and uses the room measurements provided by the seller rather than risking error by personally measuring.
2	A salesperson is asked by a buyer customer, if the vacant land adjoining a property will be developed soon. The salesperson discloses the property was recently sold and recommends the buyer confirm any development plans with the municipality.
3	A salesperson informs a buyer client that many buyers seek out the services of a property inspector rather than provide an opinion on the extent of a problem identified during a property viewing.
4	A salesperson does not disclose to the buyer customer that the basement apartment may not be legal to avoid providing advice.



General Obligations Owed to a Client and a Customer

Under the common law of agency, there are eight general obligations a brokerage and salesperson owe to a client. When interacting with a customer, only two of these obligations apply. These include exercising care and skill and ensuring honesty, as both of these general obligations also reflect the obligations under duty of care. A salesperson should apply these general obligations to the everyday functions performed on behalf of a seller or buyer with a clear understanding of the obligations owed to a client and the limited obligations owed to a customer.

Next, these obligations will be detailed along with examples to illustrate how the obligations apply to you as a salesperson.



Obligations Owed to Both Clients and Customers

Two general obligations that are owed to both a client and a customer are:

- Exercising care and skill
- Ensuring honesty

In interactions with a client or a customer, a salesperson must exercise care by being conscientious in answering questions, exercise skill by performing all obligations competently, and ensure honesty by providing accurate information. As detailed earlier, the level of competency expected is that of any prudent salesperson. Complying with these general obligations would include ensuring the completeness and accuracy of all information and recommending relevant experts when applicable.

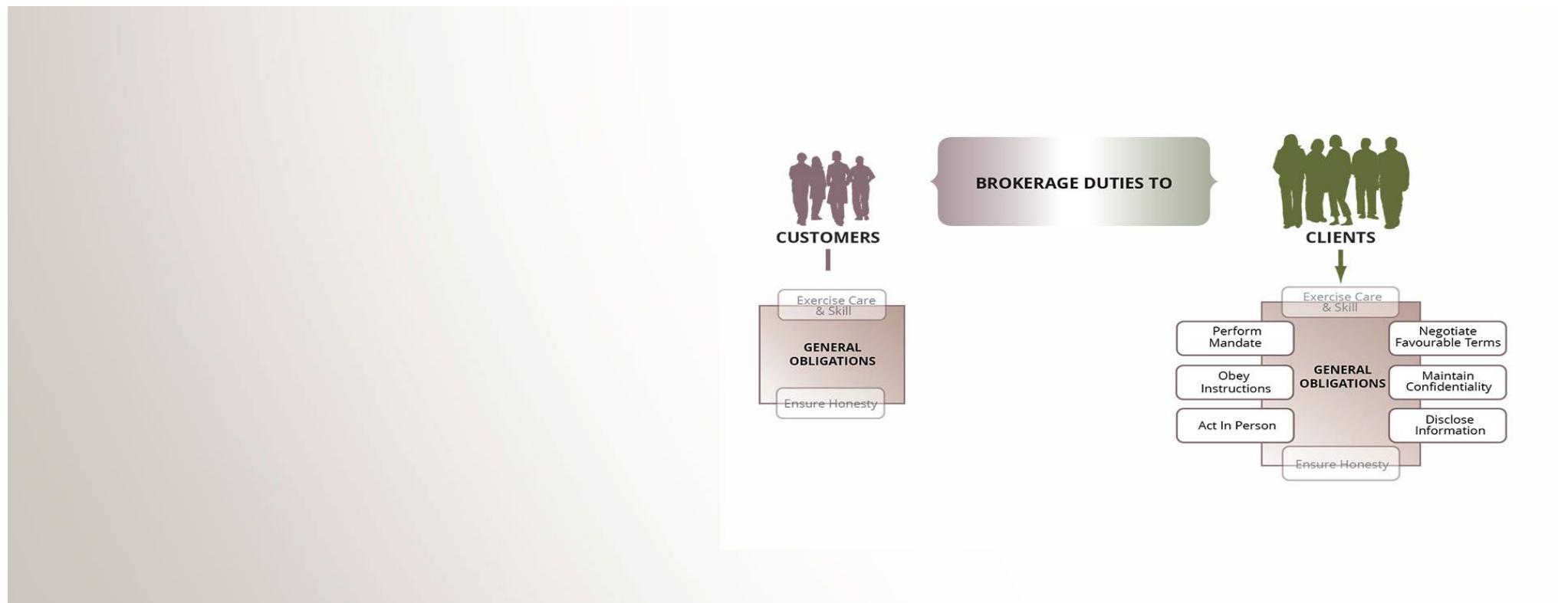
These two obligations under the common law of agency are also found within the Code, applying to all clients and customers. A salesperson must provide conscientious and competent services and treat every person with fairness, honesty, and integrity.

Exercise Care and Skill Example: A buyer who is viewing a property with their salesperson indicates concern over the water stains on the basement wall. The salesperson responds by saying that water stains can indicate larger problems, so a professional should be retained to investigate the extent of any damage and whether the problem still exists today. The salesperson also recommends including a condition in any offer allowing for an inspection to be completed and a satisfactory report received.

The salesperson exercises care and skill in acknowledging the buyer's concern and recommending that a third-party professional be retained.

Honesty Example: The listing salesperson arrives at an open house 30 minutes before it is scheduled to begin. The seller is speaking to another individual, who has arrived early and is interested in viewing the property. The salesperson joins them as the seller states that the property features a large backyard and is priced very well considering the bush and stream at the rear. The potential buyer indicates owning a property that includes a bush and stream is very appealing. The salesperson concludes the potential buyer is mistaken by what the seller has said and explains that the bush and stream are not located on the property but are lands owned by the Crown, and the seller's property ends prior to the treeline.

The salesperson ensures honesty by ensuring the potential buyer is not misled about the seller's property.



General Obligations Owed to Clients

Now, let's review the additional six general obligations a brokerage and salesperson owe to a client.

The following six sections contain information on client-exclusive obligations.

Negotiate favourable terms



A brokerage must diligently advance the client's interests by assisting in negotiations, discussing their options, and drafting favourable terms and conditions in agreements arising from these negotiations.

Accordingly, a salesperson must possess the necessary knowledge and skills to successfully negotiate agreements and also ensure that legally binding agreements are drafted on behalf of their client.

Example: A salesperson is presenting an offer received on a seller's property. The salesperson points out concerns about a financing clause the buyer added to the offer and recommends a change that could result in more favourable terms from the seller's perspective. The seller agrees to the change, and a counter offer is submitted with the revised terms to the buyer's salesperson. The buyer reviews the terms and agrees to the change resulting in a successfully negotiated agreement of purchase and sale between the parties.

Maintain confidentiality



Maintaining the confidentiality of a client is fundamental to an agency relationship. A brokerage and salesperson must maintain confidentiality regarding all matters that could adversely impact or undermine the client's position during negotiations.

Common examples include the client's personal information, any motivation for buying or selling, and the amount willing to be paid or accepted during negotiations. The duty of confidentiality survives termination of the representation agreement and the closing of the transaction.

Example: The listing salesperson has obtained an offer on the seller's property, which is lower than what the seller had anticipated receiving. The seller indicates they are willing to accept the offer but would like to first counter the buyer's offer with a higher price.

The salesperson submits the revised offer to the buyer's salesperson and does not disclose any information related to the seller's willingness to accept a lower price. The buyer agrees to the seller's offer and a sale is successfully negotiated between the parties.

Disclose information



A brokerage and salesperson have a duty to fully disclose any information that is relevant to the relationship as principal and agent, or matters relating to the transaction, which could impact the decisions being made.

Information about the relationship includes any actual or potential conflicts of interest, such as the salesperson being a party to the trade, either directly or indirectly. Matters related to the transaction can include events involving the property, the offer, or third parties.

The obligation to disclose information requires a salesperson to ensure full disclosure of any actual or potential issues or matters before the client makes a decision or takes any action.

Additional information related to disclosure of information about the relationship is detailed later in this lesson under Fiduciary Obligations.

Example: A salesperson is showing a property to a young couple, who are very interested in purchasing it. The salesperson knows the buyers have limited funds set aside, if the property purchased needs any immediate repairs.

The salesperson identifies a section of the home that contains older wiring and explains these deficiencies might need to be addressed right away. Based on the information provided by the salesperson, the buyers obtain a quote to complete the necessary upgrades from an electrician prior to placing an offer on the property.

Act in person



A brokerage as an agent must perform duties personally, unless instructed otherwise. In a representation agreement, the brokerage is allowed to extend the authority to represent the client to their employed salespersons. Further, a seller may agree to the brokerage co-operating with other brokerages in the showing of the property to prospective buyers.

Example: A listing salesperson has scheduled an open house for this Saturday but is not able to attend as an out-of-town buyer is arriving and has only two days to view properties.

The listing salesperson contacts the seller and advises them of this and suggests that another salesperson from the brokerage conduct the open house. The seller agrees as it is understood the brokerage can delegate duties to their employed salespersons.

Obey instructions

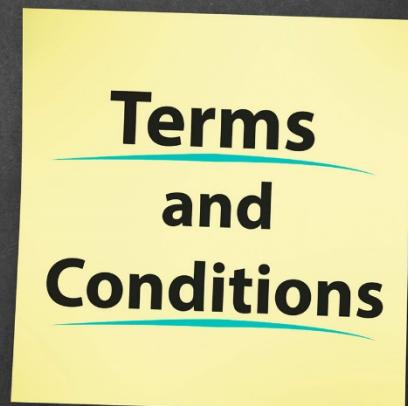


A brokerage is obligated to obey all lawful instructions from the client. However, this obligation only extends to lawful instructions.

Example, the brokerage would not have to follow an instruction from the seller to provide false and misleading information about the property to a buyer, such as identifying there has been no water seepage in the basement when in fact, there has been.

Example: A seller indicates specific instructions for any showings when listing his \$1,500,000 penthouse condominium. The seller requires all salespersons to leave a business card at the property when showing buyers through the home and also requires the listing salesperson to be present for all showings. Any feedback from prospective buyers during such showings is to be provided in an email. The listing salesperson agrees to these instructions as they are all lawful.

Perform mandate



A brokerage must perform the mandate as set out in the representation agreement between the parties and act within specific authorities granted.

The brokerage should seek clarification when doubt exists regarding such authorities. A brokerage, including all employed salespersons, is not legally obliged to complete specific acts, unless these terms are explicitly set out in the agreement.

However, a brokerage that does not perform those acts usual to the listing and showing of properties may give rise to successful legal action for negligence.

Example: A seller signs a representation agreement that authorizes the brokerage to undertake marketing activities it deems effective to sell the property. In accordance with this instruction, the brokerage markets the home by placing the listing on the brokerage's website, promoting the listing using social media, and showing the property to prospective buyers during reasonable hours. However, the seller has specifically removed any authorization in the agreement for any signage at the property. As such, the brokerage must act within the specific authority granted and should not place a "for sale" sign on the property.

Jason, a salesperson with XYZ Realty Ltd, recently listed a property located in an older neighbourhood. He is showing the property for a second time to a buyer customer named Sylvia. When arriving, Jason notices a municipal vehicle on the street and two individuals installing a new sign on the property across the street. The sign is alerting the public to an application for rezoning. Sylvia is concerned the rezoning will change the neighbourhood appeal and is now hesitant about viewing the property again.

What should Jason say to Sylvia to comply with his obligations to exercise care and skill, and ensure honesty?

There are four options. There are multiple correct answers.

1	"The sign is new so I will need to contact the municipality to confirm the proposed change to the zoning. As this is an older neighbourhood and property sizes are spacious, there is a possibility for a change in use."
2	"Rezoning a property can sometimes impact property values and changing the use can lead to construction noise and disturbances for the neighbourhood. There is always the chance this rezoning won't be approved, but details are needed before you make any decision."
3	"I understand that you may have concerns, however, I have never seen a rezoning have a negative impact on a neighbourhood. I would encourage you to continue with the viewing and consider making an offer."
4	"A change to the zoning means this older neighbourhood is undergoing a transition. This always results in property values increasing. Purchasing this property before values increase is a wise decision."

A salesperson is showing a property to a buyer client and overhears the seller customer discussing with a neighbour the water problems they had this past summer during the drought. The water problems relate to both the water quality and adequate supply, and the seller indicates they did not disclose this to the listing brokerage. After leaving the property, the buyer's salesperson informs the buyer about the discussion they overheard regarding the potential water problems with the property.

This scenario is best described by which of the given general obligations being complied with by the buyer's salesperson?

There are four options. There is only one correct answer.

1	Obey instruction
2	Act in person
3	Maintain confidentiality
4	Disclose information

Under the common law of agency, a brokerage and all employed salespersons owe general obligations to clients and customers.

Identify the statements that are correct for the given scenarios.

There are five options. There are multiple correct answers.

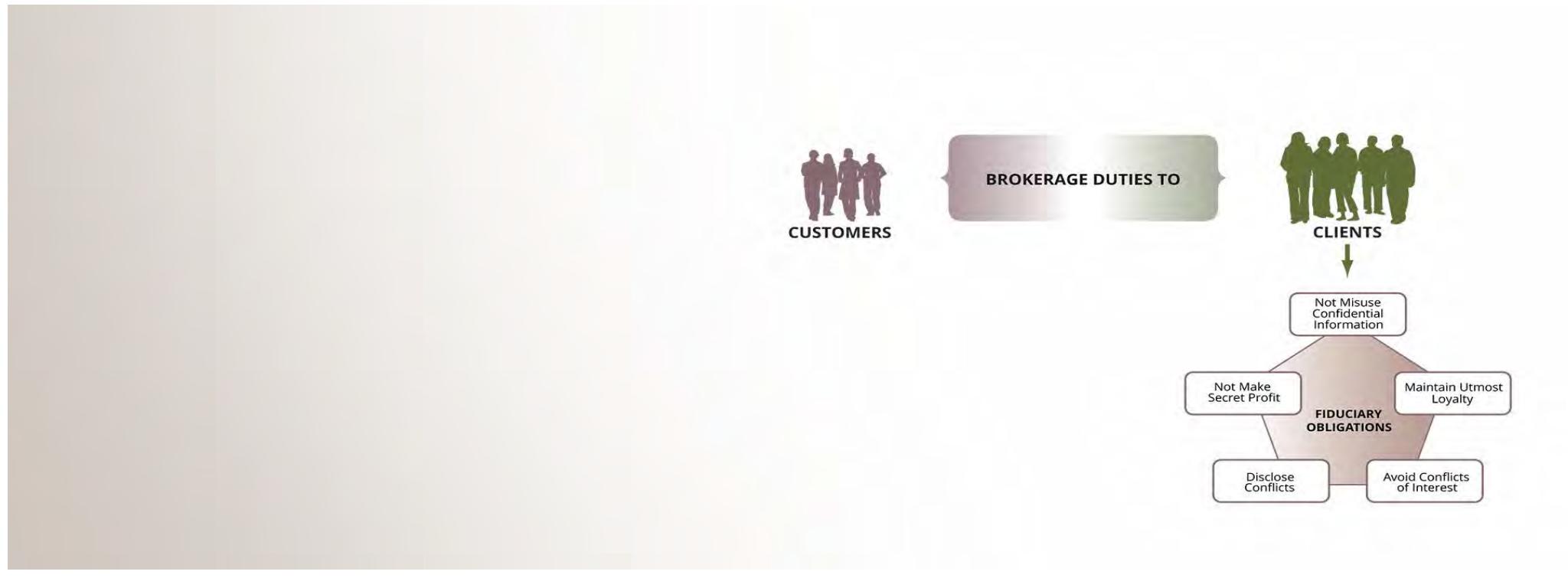
1	A salesperson researches recent sales to assist a seller in an appropriate listing price. The general obligation owed in this scenario is 'exercise care and skill'.
2	A buyer notices water stains on the foundation. The salesperson recommends a professional inspection as this could be a serious problem. The general obligation owed in this scenario is 'exercise care and skill'.
3	A salesperson overhears a seller misrepresenting the square footage of their home to a prospective buyer and corrects the information. The general obligation owed in this scenario is 'ensure honesty'.
4	A buyer attending an open house says their children could walk to school from here. The salesperson corrects the buyer's statement as the school is closing. The general obligation owed in this scenario is 'ensure honesty'.
5	A seller, when listing her multi-million dollar mansion, requires the listing salesperson to be present for all showings. The general obligation owed in this scenario is 'perform mandate'.

Under the common law of agency, a brokerage and all employed salespersons owe general obligations to clients and customers.

Identify the statements that are correct for the given scenarios.

There are five options. There are multiple correct answers.

1	A salesperson advises all brokerages and salespersons that the seller requires them to leave a business card after showing the property. The general obligation owed in this scenario is 'obey instructions'.
2	A buyer indicates that they only want to view properties in a specific area. The salesperson reviews several listings and selects five to show to the buyer. The general obligation owed in this scenario is 'act in person'.
3	A salesperson places a "For Sale" sign on the property just listed for sale and includes the information on the brokerage's web site. The general obligation owed in this scenario is 'perform mandate'.
4	A seller agrees that other brokerages can co-operate in the sale of their property. The salesperson promotes the listing to other salespersons. The general obligation owed in this scenario is 'perform mandate'.
5	A salesperson is not able to show properties to a buyer on Saturday, but another salesperson from the brokerage is available. The general obligation owed in this scenario is 'act in person'.



Fiduciary Obligations Owed to a Client

An agency relationship is one based on trust and confidence and involves the legal or ethical responsibility requiring the agent to act in the principal's best interests at all times. The obligations inherent in an agency relationship are known as fiduciary obligations and are owed only to a client. Fiduciary obligations are not owed to a customer.

Under the common law of agency, a brokerage's relationship with a client is thus considered fiduciary in nature. As a fiduciary, a brokerage and all salespersons must act at all times in the principal's best interests. This means avoiding conflicts of interest, disclosing conflicts, not making secret profits, and not misusing confidential information.

Although the basis of fiduciary obligations is part of agency law, the Code also provides for this. A salesperson must at all times work in a client's best interests. The next few screens explain the fiduciary obligations in detail.



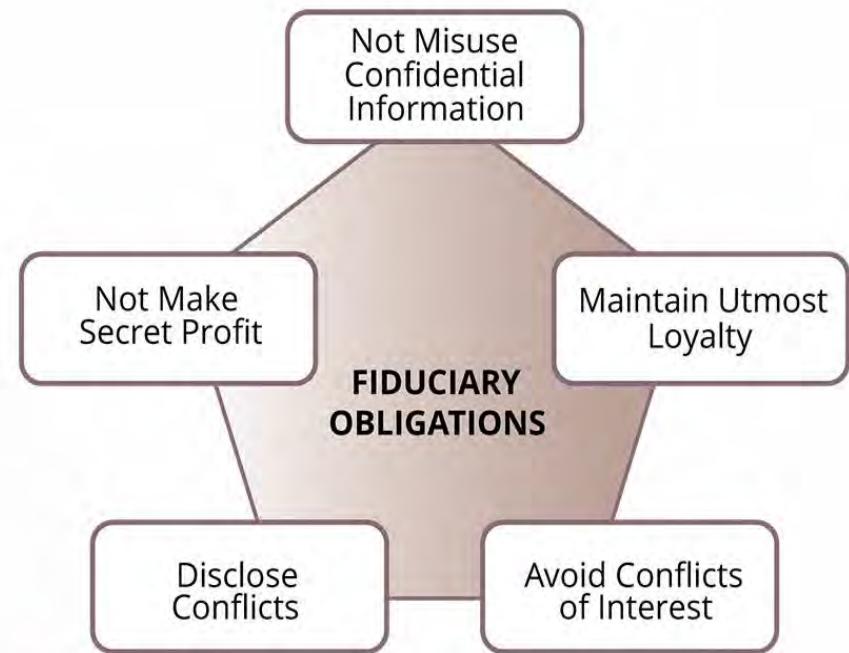
Creating a Fiduciary Relationship

As you have learned, an agency relationship—also known as a fiduciary relationship—is consensual in nature and is created when an agent accepts the authorities granted by a principal to act on the principal's behalf in business transactions with a third party. In other words, an agency or fiduciary relationship is created by mutual consent and not necessarily from a contractual relationship.

While the most common method of creating an agency relationship is by written agreement, it can also be established by words and actions. An agency/fiduciary relationship can be created when a salesperson receives confidential information from a seller or a buyer and, by their words or actions, leads the seller or buyer to believe that they will act in the seller's or the buyer's best interests.

The relationship can also be created when the salesperson takes no action to correct the seller's/buyer's mistaken belief that their interests will be protected. Therefore, a fiduciary relationship can exist even when a brokerage has not entered into a written representation agreement with sellers or buyers. It can exist when the brokerage is acting gratuitously for their clients or is engaged in joint ventures with their clients.

Although an agency/fiduciary relationship can be created by words or actions, the Code requires a verbal representation agreement with a seller or a buyer to be in writing as soon as possible, and must be before an offer is made. It must be signed on behalf of the brokerage and submitted to that seller or buyer for signature. Although common practice, the seller or buyer is not obligated to sign the document.



Fiduciary Obligations Owed to a Client

Case law has established that various elements must be present to create a fiduciary relationship. Fiduciary obligations are based on three fundamental premises:

- Loyalty: Loyalty is focal to any fiduciary relationship and, in fact, encompasses all other obligations within its scope. At all times, the client's best interests are serviced, and these interests will always take priority over personal and third-party interests.

- Best interests: A brokerage must at all times act in the client's best interests. A brokerage and salesperson must never permit their own interests, or those of a third party, to override this duty. The client's informed consent must be obtained if such interests come into conflict, either directly or indirectly, with the client's interests.
- Trust and confidence: A client places trust and confidence in the brokerage and relies on the advice given. As such, a client becomes dependent on and vulnerable to the brokerage.

The three elements of a fiduciary relationship flow to five fiduciary obligations. The next few screens explain each of the fiduciary obligations in detail.

Specific Fiduciary Obligations

The fiduciary obligations owed to a client will be the basis for how a salesperson interacts with seller and buyer clients.

The following five sections contain information on different fiduciary obligations including an example of how each obligation would be complied with by a salesperson.

While navigating through the online module, click the KMS button in the Module Resources for tools and information on this topic.

Maintain utmost loyalty	<p>This obligation effectively encompasses all other fiduciary duties. The client's interests take precedence over those of the brokerage, any salesperson, and that of any other party.</p> <p>Maintaining loyalty is best achieved by representing the interests of only one party to a transaction (single representation). Difficulties in maintaining loyalty arise when a brokerage attempts to act in the best interests for competing parties in a transaction in multiple representation, such as a seller and buyer or two competing buyers.</p> <p>A breach of any brokerage obligation owed to a client constitutes a breach of loyalty, as the brokerage is not acting in the client's best interests.</p> <p>Seller Example: A seller and their salesperson are discussing two offers they have received. Both offers are from co-operating brokerages, but one offer is through a salesperson who is also a personal friend of the seller's salesperson. Although the offer price is similar for both, the friend's offer lacks some of the terms in the other offer, which are better for the seller. The salesperson fully details these</p>
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	<p>disadvantages to the seller without regard for personal interests in advancing the friend's offer. The seller agrees and accepts the other buyer's offer.</p> <p>Buyer Example: A salesperson is showing properties to a buyer and when viewing one of the listings, realizes the property would be ideal for their own purchase. The buyer is also very interested in the property and asks for the salesperson's advice on placing an offer. The salesperson puts aside their own interests and successfully negotiates an offer on behalf of the buyer.</p>
Avoid conflicts of interest	<p>Many forms of conflict of interest can arise, both within a brokerage and individually for a salesperson. A conflict of interest can involve:</p> <ul style="list-style-type: none"> • A brokerage representing two clients at the same time in the same transaction (multiple representation) • A salesperson purchasing their client's property • A client purchasing their salesperson's property • A salesperson or brokerage being either directly or indirectly involved in the transaction (for example, the seller is a relative of the listing salesperson) • A brokerage having some other association that creates a potential or actual conflict of interest, such as a brokerage with a salesperson who is also an appraiser <p>Seller Example: A seller has accepted an offer on their property, conditional upon the buyer obtaining financing. The listing brokerage also has an appraisal division and two of the salespersons are qualified to complete residential appraisals for lenders. One of these salespersons is asked to complete an appraisal for a buyer, but when discovered the request is for a listing within the salesperson's brokerage, the appraisal request is denied.</p> <p>Buyer Example: A salesperson is approached by a buyer during an open house who indicates they are interested in purchasing the property and want to be represented by the salesperson. The salesperson explains that the brokerage represents the seller and describes the conflict of interest that inherently arises if</p>

	<p>the brokerage were to also represent them. Based on this, the buyer chooses to receive customer services instead.</p>
Disclose conflicts	<p>The brokerage must disclose any personal or third-party interests that conflict (or may conflict) with the interests of the client. The client must have full knowledge of the exact nature and extent of the conflict if the brokerage is to avoid potential liability for breach of any fiduciary obligations.</p> <p>While common law does not mandate a disclosure be in writing, practical considerations would result in a signed document attesting to the client's awareness of, and consent to, the specified conflict. Failure to openly disclose conflicts can give rise to liability for a brokerage and a salesperson.</p> <p>In addition to the practical considerations, a salesperson must comply with the requirements under REBBA relating to disclosures of an interest, either directly or indirectly, by a salesperson. These disclosure requirements apply to both clients and customers of a brokerage. You will learn more about obligations owed under REBBA later in this module.</p> <p>Seller Example: A salesperson wants to buy a property listed with their brokerage. When arranging for an appointment to view, they verbally disclose their status as a salesperson. When drafting their offer, they prepare a written disclosure containing specific information as required.</p> <p>Buyer Example: A salesperson's parents are interested in purchasing a condominium as they are downsizing from the large family home. The salesperson advises the listing brokerage of this relationship prior to showing the condominium and then provides a written disclosure to the seller prior to an offer.</p>
Do not make a secret profit	<p>This obligation prohibits an agent from profiting unlawfully at the expense of the principal. This obligation can involve a brokerage and salesperson profiting from various activities. These activities can include:</p> <ul style="list-style-type: none"> • Improper advice or breach of loyalty: Any profit from the principal's trust and reliance on advice provided to further the personal interests to the

	<p>detriment of the client is prohibited. This would include instances such as a salesperson advising a seller to accept an offer below market value because the property has been difficult to sell, and the listing is soon to expire.</p> <ul style="list-style-type: none"> • Payment from another party: A brokerage may not accept remuneration from both parties to a transaction unless full disclosure is made to all parties. The amount being received must be disclosed and consent by the client to retain the payment is required. • Payment by third party: A brokerage may not receive a secret profit from someone who is providing services relating to the transaction. This would include a referral fee being paid by a property inspector, appraiser, or lender. Also included would be any third party who is providing services that are incidental to the transaction, such as a moving company, contractor, or stager. Any payment by a third party must be disclosed to the client. <p>In addition to this fiduciary obligation, a salesperson also has disclosure requirements under REBBA relating to any direct or indirect financial benefit. You will learn more about obligations owed under REBBA later in this module.</p> <p>Seller Example: A listing salesperson, in addition to receiving a remuneration from the seller client, is offered an additional fee from the home staging company for referring the seller. The salesperson discloses this fee in writing to the seller who consents to the brokerage receiving and retaining the fee.</p> <p>Buyer Example: A salesperson representing a buyer will receive a remuneration from that client for locating and negotiating an accepted offer on a property. The property located for the buyer is being sold privately by a seller. The seller offers a bonus to the salesperson if the buyer purchases the property. The salesperson makes a full disclosure of the bonus to the buyer prior to submitting an offer.</p>
Do not misuse confidential information	<p>A brokerage and salesperson will acquire confidential information by the very nature of the client relationship. As this relationship is established based on trust and loyalty, any confidential information obtained must not be divulged or used to promote the interests of the brokerage or salesperson. Providing confidential</p>

information to another party to the transaction can have significant detrimental impact on the client.

This requirement excludes any information about the client, the property, or the transaction that, by law, the brokerage is required to disclose.

Suspicious transactions, money laundering, and terrorist financing involving a client (or customer) must be disclosed to the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC).

Seller Example: A salesperson is working with a client to sell their house; the client is in a hurry due to a job change and very eager to sell. A buyer customer is looking at the seller's property and is considering making an offer, but first wants to know why the seller is selling. The salesperson does not engage in any casual conversation regarding the property nor do they disclose their client's personal information.

Buyer Example: A buyer informs the salesperson in confidence they are willing to pay the full asking price of a property because they are quite anxious to purchase it. The buyer wants to submit an offer that is less than this amount but states if the seller makes a counter-offer at a higher price, they will accept the offer. The salesperson does not disclose this information, as this would impair the buyer's negotiating position.

Reggie, a potential buyer, walks into an open house conducted by the listing salesperson, Nia. Nia identifies herself as representing the sellers and asks Reggie if he is working with any salesperson. Reggie's answer takes Nia by surprise, as he suddenly begins to share some personal financial details. Nia interrupts Reggie and explains he should not be sharing these details with her as she represents the seller, and any disclosures would only complicate the situation, as there are fiduciary obligations she must comply with. Reggie asks Nia to explain further.

Which of the given explanations should Nia provide to Reggie when explaining fiduciary obligations?

There are four options. There is only one correct answer.

1	"Brokerages must avoid any conflicts of interest whenever possible. For example, I could avoid a conflict of interest by not representing you as a client, if you decided to purchase this property."
2	"Brokerages must keep all information confidential. This particular obligation is owed whether you are a client or a customer."
3	"Brokerages must disclose any conflicts of interest. For example, if the seller was my mother, I would tell you this, but there would be no reason to put it in writing."
4	"Brokerages must be loyal to their clients. So, for you to become my client, I need you to sign a representation agreement before we speak about any details."

Fiduciary obligations are owed to all clients as the agency/fiduciary relationship is based on loyalty to the principal.

Identify the correct statements regarding Fiduciary obligations.

There are five options. There are multiple correct answers.

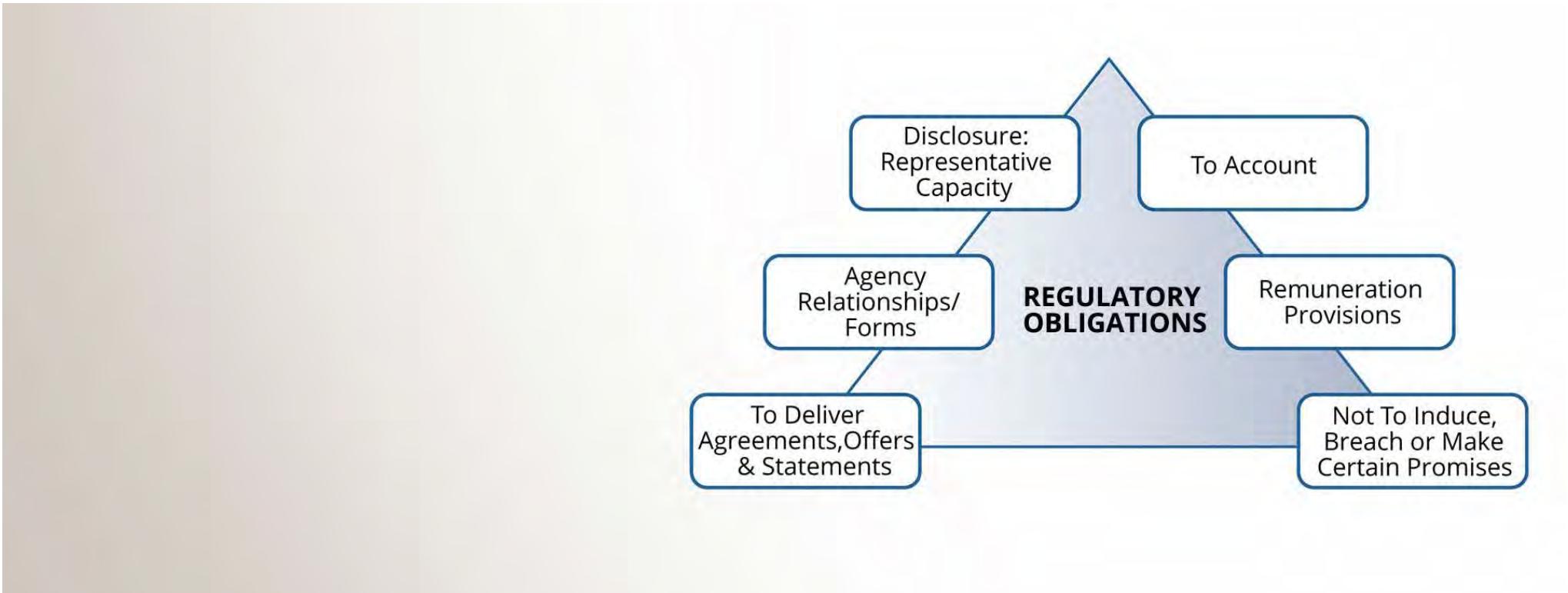
1	A salesperson advises a seller to accept an offer from another brokerage rather than their own offer, as the terms are better for the seller. The fiduciary obligation owed in this scenario is 'maintain utmost loyalty'.
2	A brokerage employs a salesperson who is also an appraiser. The salesperson completes an appraisal on a sale, where another brokerage represents the seller and buyer. The fiduciary obligation owed in this scenario is 'avoid conflicts of interest'.
3	A salesperson sees a new listing. It is perfect for both her and a buyer she has been working with; the salesperson shows the property to the buyer who purchases it. The fiduciary obligation owed in this scenario is 'avoid conflicts of interest'.
4	A buyer attending an open house states they want to place an offer after viewing the property; the listing salesperson and buyer agree to a customer relationship. The fiduciary obligation owed in this scenario is 'maintain utmost loyalty'.
5	A salesperson is representing their son and daughter-in-law in the purchase of their first home. A written document is provided to the seller, which identifies this relationship. The fiduciary obligation owed in this scenario is 'disclose conflicts'.

Fiduciary obligations are owed to all clients as the agency/fiduciary relationship is based on loyalty to the principal.

Identify the correct statements regarding Fiduciary obligations.

There are five options. There are multiple correct answers.

1	A salesperson is purchasing a property through a corporation in which they are a shareholder. The salesperson includes this as a written disclosure to the seller. The fiduciary obligation owed in this scenario is 'disclose conflicts'.
2	A salesperson receives a fee from a mortgage broker for referring a buyer client. This is disclosed to the buyer. The fiduciary obligation owed in this scenario is 'do not make a secret profit'.
3	A salesperson representing a buyer in the purchase discloses the brokerage will receive a remuneration from both the seller and the buyer. The fiduciary obligation owed in this scenario is 'do not make a secret profit'.
4	A seller counters a buyer's offer at a higher price but tells the salesperson they would accept a lower price. This is not disclosed to the buyer. The fiduciary obligation owed in this scenario is 'do not misuse confidential information'.
5	A buyer is motivated to purchase a property due to its proximity to family. When presenting an offer, the buyer's salesperson does not disclose this information. The fiduciary obligation owed in this scenario is 'disclose conflicts'.



Regulatory Obligations Owed to Clients and Customers

A brokerage and salesperson must comply with regulatory obligations under REBBA in addition to the general and fiduciary obligations imposed under the common law of agency. As a salesperson, to fulfill your obligations, you will need a thorough understanding of how the regulatory obligations impact any activities.

Under REBBA, obligations are owed to both a client and your customer, although, these obligations can differ substantially based on the relationship a brokerage has with a seller or a buyer. The given screens detail some of the regulatory obligations owed including how any responsibilities differ when representing a client or providing services to a customer.

Specific Regulatory Obligations Owed to Clients and Customers

In many ways, the requirements under REBBA mirror the requirements under the common law of agency.

The following six sections contain information on the regulatory obligations owed to both a client and a customer under REBBA.

Account	<p>Under REBBA, the brokerage has a regulatory responsibility to account for, safeguard, and keep proper records pertaining to money, documents, and property entrusted to that brokerage.</p> <p>As part of safeguarding a buyer's deposit, a brokerage must place it in the brokerage's real estate trust account. In addition, brokers and salespersons, must be insured under the RECO Insurance Program to maintain registration with RECO. This provides protection for a buyer's deposit held in the brokerage's real estate trust account.</p> <p>REBBA also requires a brokerage to maintain a written record of all monies received and held in trust for other persons in connection with the brokerage's business and to every transaction relating to that money. Such transactions would include any disbursement of the funds and interest earned on the money. Specific information must be documented by the brokerage in accordance with the trust requirements of the specific trade. A brokerage could retain this information in what is often referred to as the real estate trust ledger.</p> <p>As a salesperson, understanding the brokerage's requirements will ensure you do not place the brokerage in a position of non-compliance with REBBA.</p> <p>Example: A salesperson receives the deposit from a buyer relating to an accepted offer. The offer indicates the deposit is being held by the listing brokerage.</p>
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	<p>The buyer's salesperson ensures the deposit is immediately provided to the listing brokerage who will place the deposit into their real estate trust account within the specified regulatory time limit (no later than five business days from receipt).</p> <p>The listing brokerage completes the required documentation to show the deposit being placed into the account. When the transaction is completed, the brokerage will disburse the deposit from the statutory trust account according to the terms of the trust.</p> <p>At all times, the buyer's deposit is safeguarded, as the brokerage has complied with the requirement to maintain insurance.</p>
Establish remuneration provisions	<p>REBBA identifies the allowable ways remuneration payable to a brokerage can be calculated. Remuneration can be established based on an agreed-upon amount (a flat fee) or a percentage of the sale price/rental price, or a combination of both. The percentage does not have to be fixed but may be expressed as a series of percentages that decrease at specified amounts as the sale or rental price increases. The percentage cannot increase as the sale or rental price increases. Remuneration also cannot be calculated based on the difference between the price the property was listed for sale or rent, and the actual sale or rental price.</p> <p>The given are also requirements under the Code relating to remuneration:</p> <ul style="list-style-type: none"> • A salesperson must disclose in writing at the earliest practical opportunity any direct or indirect financial benefit that a salesperson or person related to the salesperson may receive from another person in connection with the trade in real estate. This obligation would require the salesperson to disclose any finder's fee being paid to the salesperson, such as a fee paid by a lender who is providing financing for a buyer. • When a brokerage has entered into an agreement with a seller and buyer and then also enters into an agreement with another person in respect of

	<p>the same trade, the brokerage must disclose the terms of each agreement in writing to each of the parties.</p> <p>REBBA further provides that no legal action can be taken to collect commission unless the person who brings such action is either registered or exempt from registration at the time of providing the services.</p> <p>Refer to the previous module Introducing the <i>Real Estate and Business Broker's Act (REBBA)</i> for additional information regarding calculating remuneration.</p> <p>Example: The remuneration rate in the seller representation agreement was agreed upon as 4.5% on the first \$250,000 of the selling price and 2.5% on the balance.</p> <p>Example: A brokerage has entered into a representation agreement that requires the seller to pay 5% of the sale price as remuneration to the brokerage. A buyer purchasing the property through the same brokerage has agreed to pay an additional \$1,000 as remuneration. The disclosure for both remuneration being paid is disclosed in writing to the seller and buyer.</p>
Do not induce, breach, or make certain promises	<p>REBBA prohibits a brokerage or salesperson from inducing a party to cancel an agreement for the purpose of entering into another agreement. This would apply to any agreement relating to a trade, including a representation or customer service agreements, as well as an agreement of purchase and sale. Further, a brokerage or salesperson cannot make certain promises to a seller or buyer (for example, to resell the property if the buyer purchases it) unless the promise is put in writing, signed by the person making the promise, and delivered to the party to whom the promise is made.</p> <p>Example: A salesperson representing a buyer has successfully negotiated an agreement of purchase and sale. Several weeks after acceptance, a new listing is discovered by the buyer who contacts their salesperson with a request to</p>

	<p>terminate the accepted offer in order to purchase the new listing. The salesperson informs the buyer that such advice cannot be provided.</p> <p>Example: A salesperson promises a buyer that they will guarantee the sale of the buyer's current property in order for the buyer to purchase another property. The promise is a personal promise of the salesperson and does not oblige the brokerage. The salesperson provides a document identifying the details of the promise, signs the document, and provides this to the buyer prior to the buyer purchasing a new property.</p>
Deliver copies of agreements, offers, and statements	<p>Various requirements under the Code apply to a brokerage and salesperson relating to any documents or deposits in connection with a trade in real estate. These include:</p> <ul style="list-style-type: none"> • A copy of the agreement for the purpose of trading in real estate must be given to the client or customer immediately upon signing. This would include a representation or customer service agreement. Each party signing the agreement must receive a copy when the document has been signed. This requirement prohibits a salesperson returning the following day to provide a copy to a seller or buyer. • A signed copy of any written agreement relating to the conveyance of an interest in real estate is to be delivered to each of the parties at the earliest possible opportunity. This would include an agreement of purchase and sale. For example, this requirement allows a salesperson to provide each seller or each buyer a copy of an accepted offer on the day after the other party had accepted the offer, rather than providing a copy immediately. • Any deliverable within the agreement of purchase and sale, such as a deposit or documents pertaining to the transaction, must be delivered in accordance with the time and dates specified in the agreement. This would require a salesperson to provide a buyer's deposit as identified within the agreement, as well as any notices, amendments, or other documents related to the trade. • When a seller has completed a written statement that is intended to provide information to buyers about the real property, the salesperson representing

	<p>the seller must advise any buyer that expresses an interest in the property that this document exists. The salesperson must also provide potential buyers with a copy of this document, if requested, unless the seller provides the salesperson with written instruction to the contrary. This can be complied with by indicating on a listing that the disclosure statement is available. When a salesperson is working with a buyer, this information would become known and the buyer's salesperson could request a copy from the seller or listing brokerage.</p>
Document relationships and requirements for any agreement	<p>When documenting a relationship with a seller or buyer, there are several different compliance requirements under the Code for a brokerage and salesperson:</p> <ul style="list-style-type: none"> • The requirements relating to the minimum content to be included in any written representation or customer service agreement include the start date and expiry date, remuneration obligations, a description of the services options available, and the services to be provided by the brokerage under the agreement. • The obligations relating to seller and buyer representation agreements or customer service agreements must be in writing, signed on behalf of the brokerage, and submitted to the respective seller or buyer for signature. This must be done prior to any offer being made. • Disclosure requirements relating to multiple representation extend past obtaining a representation agreement. At the point when a brokerage wants to represent more than one client in a transaction, additional disclosures are required including an explanation of how the services will differ as a result of multiple representation. The salesperson must obtain consent from the parties at this time. Whether working under multiple representation or not, additional requirements prior to entering into an agreement of purchase and sale include informing all sellers and buyers involved the nature of the brokerage's relationship to each seller and buyer. • To assist in ensuring the brokerage and salesperson are providing the services agreed to in a representation agreement, all significant steps taken

	<p>on behalf of the client shall be communicated to the client throughout the course of the relationship.</p> <p>You will learn more about representation and customer service agreements later.</p>
Provide disclosure of service options before an agreement	<p>The Code requires that a brokerage discloses the brokerage's role and the service options available as early as is practically possible and before entering into a representation or customer service agreement. This disclosure requirement also addresses the possibility of multiple representation and the consequent implications for seller and/or buyer clients. The brokerage and salesperson must use their best efforts to obtain a written acknowledgment from the consumer that such information has been received and understood.</p> <p>Example: A brokerage has prepared an information sheet, which explains the types of service alternatives available and other information a seller or buyer is required to receive prior to entering into a representation or customer service agreement. The salesperson explains this information, confirms the buyer understands it, and then obtains a signature from the buyer. The salesperson and buyer then determine the type of relationship the brokerage and buyer will establish.</p>

Henry has contacted Monique, a salesperson with ABC Real Estate Ltd. Monique will be meeting with Henry to discuss listing his property for sale.

Which of the given explanations comply with Monique's requirements under REBBA related to listing Henry's property for sale or obtaining an offer?

There are five options. There are multiple correct answers.

- | | |
|---|---|
| 1 | "We will discuss providing a written disclosure about the property. I can let other salespersons and potential buyers know about this so a buyer can receive a copy. Do you feel comfortable making those disclosures available?" |
| 2 | "We will discuss the remuneration that will be paid to my brokerage. It can be calculated in a few different ways, so let's look at the options." |
| 3 | "We will discuss situations where my brokerage could be representing more than one client when an offer is received on your property. As this is important to understand, we will discuss this now as well as before an offer is presented to you." |
| 4 | "There is always a lot of paperwork with a real estate transaction. I am obliged to leave a copy of this representation agreement with you once you have signed it." |
| 5 | "A buyer's deposit will likely be placed in our brokerage's general bank account for safe keeping. Our brokerage has insurance to protect the buyer's deposit, but not all brokerages do." |

A salesperson is representing a seller and is holding an open house. A prospective buyer visits the property and approaches the salesperson as they are very interested in placing an offer on the property. The buyer asks for advice as they purchased a property one month ago but would like to terminate that agreement to purchase this property instead. The buyer asks if this is possible because the transaction is not scheduled to close for another two months.

What should the salesperson do?

There are four options. There are multiple correct answers.

1	The salesperson should review the buyer's agreement of purchase and sale to see if there is any potential to terminate the agreement.
2	The salesperson should advise the buyer that they cannot provide advice to the buyer on how to terminate the contract.
3	The salesperson should refer the buyer to obtain independent legal advice on the matter.
4	The salesperson should advise the buyer to speak with their own salesperson to terminate the contract and then contact them to purchase this property.

Identify which of the given scenarios are in compliance with REBBA.

There are three options. There are multiple correct answers.

1	A brokerage has promised a buyer that they will guarantee the sale of their current property if they purchase a specific property listed by their brokerage. The brokerage provides a written contract detailing this promise.
2	A brokerage is involved in a transaction in which the buyer has agreed to pay remuneration. The salesperson locates a property being sold privately by the seller who has also agreed to pay a remuneration to the brokerage. The salesperson discloses the remuneration arrangements to the buyer, but not the seller as the seller is not a client.
3	A buyer views a property during an open house and expresses an interest in the property. Prior to any specific details about a possible purchase, the salesperson discusses the service options and they agree that the brokerage will provide customer service to the buyer. The salesperson and buyer formalize the relationship by signing a customer service agreement prior to discussing any specifics about purchasing the property.

Congratulations, you have completed the lesson!

There are four sections on this page with a summary of the key topics that were discussed in this lesson.

Duty of care	<p>The phrase duty of care refers to the standard of care and skill provided by a salesperson to a client or a customer.</p> <p>A salesperson, whether new to the profession or not, must act within a standard expected of a knowledgeable, competent salesperson.</p> <p>Duty of care owed to a client involves everything done for that client.</p> <p>Duty of care owed to a customer involves ensuring that honesty, fairness, and integrity are exercised throughout the relationship.</p> <p>Information provided and services performed by a salesperson must be carried out in a conscientious and competent manner.</p>
General obligations	<p>Under agency law, there are two general obligations owed to both a client and a customer:</p> <ul style="list-style-type: none">• Exercise care and skill: A salesperson must exercise care by being conscientious in answering questions and exercise skill by performing all obligations competently.• Ensure honesty: A salesperson must ensure honesty by providing accurate information. <p>The given are six additional general obligations owed to clients:</p>

	<ul style="list-style-type: none"> • Negotiate favourable terms: A brokerage must diligently advance the client's interests by assisting in negotiations, discussing their options, and drafting favourable terms and conditions in agreements arising from these negotiations. • Maintain confidentiality: A brokerage and salesperson must maintain confidentiality regarding all matters that could adversely impact or undermine the client's position during negotiations. • Disclose information: A brokerage and salesperson have a duty to fully disclose any information that is relevant to the relationship as principal and agent, or matters relating to the transaction which could impact the decisions being made. • Act in person: A brokerage, as an agent, must perform duties personally unless instructed otherwise. • Obey instructions: A brokerage is obligated to obey all lawful instructions of the client; however, this obligation only extends to lawful instructions. • Perform mandate: A brokerage must perform the mandate as set out in the representation agreement between the parties and act within specific authorities granted.
Fiduciary obligations	<p>The obligations inherent in an agency relationship are known as fiduciary obligations and are owed only to a client. Fiduciary obligations are not owed to a customer.</p> <p>The given are five fiduciary obligations owed to clients:</p> <ul style="list-style-type: none"> • Maintain utmost loyalty: The client's interests take precedence over those of the brokerage, any salesperson, and that of any other party. • Avoid conflicts of interest: The salesperson must avoid the many forms of conflict that can arise both within a brokerage and individually for a salesperson. • Disclose conflicts: The brokerage must disclose any personal or third-party interests which conflict (or may conflict) with the interests of the client. • Do not make a secret profit: This obligation prohibits a brokerage or salesperson from profiting unlawfully at the expense of the client.

	<ul style="list-style-type: none"> • Do not misuse confidential information: Any confidential information obtained must not be divulged or used to promote the interests of the brokerage or salesperson.
Regulatory obligations	<p>Under REBBA, the given are six regulatory obligations owed to both a client and a customer:</p> <ul style="list-style-type: none"> • Account – OTH Sections 11 and 12 of O. Reg. 579/05 • Establish remuneration provisions – Sections 9 and 36(1) of the Act; Sections 18(4) and 18(5) of the Code • Do not induce, breach, or make certain promises – Section 33(1) of the Act; GEN Sections 25(2) 25(5) of O. Reg. 567/05 • Deliver agreements, offers, and statements – Sections 12, 20, 28, and 29 of the Code • Establish brokerage relationships and agreements – Sections 11 to 16 and 23 of the Code • Provide disclosure of service options before an agreement – Section 10 of the Code

Lesson 4: Representation

This lesson explains representation and details the obligations owed to a seller or buyer when representing one and when representing more than one party to the trade.



Under REBBA, an agency relationship is described as representation. Single representation is equivalent to single agency and multiple representation is equivalent to dual agency. It is essential to understand that when a representation is established, parties involved in that relationship have committed to certain obligations, and as a salesperson, it will be your responsibility to communicate what these are to clients. This lesson details the obligations of a brokerage and a salesperson to a client and explains the limitations to those obligations when a brokerage is representing more than one party for the same trade (multiple representation).

Upon completion of this lesson, you will be able to:

- Describe the obligations owed to a seller or a buyer under single representation.
- Describe how multiple representation alters the obligations owed by a brokerage to a seller or a buyer.

Throughout this lesson, you will participate in decision points to test your knowledge on the topics presented.



Two Categories of Representation

As you have learned, the agency relationship between principal and agent within a real estate context are known as representation. Representation can be grouped in two categories:

- Single representation: In real estate, single agency is referred to as single representation. Single agency occurs when there is one agent (brokerage) representing one principal (seller or buyer) within a transaction with a third party.
- Multiple representation: In real estate, dual agency is referred to as multiple representation. Dual agency occurs when there is one agent (brokerage) representing two or more principals (seller/buyer) within the same transaction.

As the agency relationship is established between the principal and the agent, the relationship established applies to all salespersons employed by the brokerage. For example, when a brokerage lists a seller's property for sale, the salesperson who is working directly with the seller is known as the listing salesperson. However, all obligations owed to the seller by this salesperson are also owed by all other salespersons employed by the brokerage. This is known as single representation. When a brokerage represents both the seller and the buyer, or two competing buyers offering on the same property, this is known as multiple representation, even if different salespersons within the brokerage are representing the seller and the buyer.

Seller Single Representation

Under seller single representation, the brokerage represents the seller as a client. The listing brokerage promotes the listed property, seeks out qualified buyers, and uses their professional negotiation skills to advance the seller's interests. General, fiduciary, and regulatory obligations are owed to the seller.

In single representation involving the seller, the buyer is often represented by another brokerage (the co-operating brokerage). In other instances, the buyer could be a customer of the seller's brokerage, which also results in single representation.

The given table outlines the basic obligations under a seller single representation:

Obligation	Description
Market the Property and Promote the Seller's Best Interests	Use the best efforts to market the property and to promote the interests of the seller.
Advise the Buyer that the Brokerage is the Representative of the Seller	At the earliest reasonable opportunity, advise any buyer interested in the property that the brokerage is the seller's representative.
Act as the Seller's Representative	Subject to the provisions of the agreement related to a change in representative capacity, act as only the seller's representative.
Obey Lawful Instructions	Obey all lawful instructions of the seller.
Fulfill Fiduciary Obligations	Fulfill fiduciary obligations of loyalty, confidentiality, and full disclosure of all conflicts of interest that may arise between the seller's interests and those of the brokerage, salesperson, or buyers.
Exercise Reasonable Care and Skill	Exercise reasonable care and skill in the performance of any services provided under the agreement.

Negotiate Favourable Terms	Assist the seller in negotiating favourable terms and conditions with a buyer and in preparing and complying with a legally binding agreement of purchase and sale for the property.
Disclose Material Facts to Buyers	Disclose to buyers all material facts affecting the property known to the brokerage.
Timely Present Offers and Counter Offers	Present, in a timely manner, all offers and counter offers to and from the seller.
Discover and Disclose all Relevant and Material Facts to Seller	Discover and disclose all relevant and material facts affecting the transaction—that are known, or ought to be known, to the brokerage or salesperson—to the seller in a timely manner.
Keep Seller Fully Informed	Keep the seller fully informed regarding the progress of the transaction.
Obtain Expert Advice	Advise the seller to obtain expert advice on matters of importance to the seller.
Comply with Regulatory Requirements	Comply with all provisions of REBBA including its regulations, any federal and provincial laws, and the rules and bylaws of the applicable municipality.

Buyer Single Representation

Under buyer single representation, the brokerage represents the buyer as a client. The buyer's brokerage (often referred to as the co-operating brokerage when the seller is also represented by a brokerage) must promote the buyer's best interests, locate suitable properties for the buyer to view, and use their professional negotiation skills to advance the buyer's interests. General, fiduciary, and regulatory obligations are owed to the buyer client. The given table outlines the basic obligations under a buyer single representation:

Obligation	Description
Locate Property and Promote the Buyer's Best Interests	Use the best efforts in locating a property in the specified market area(s) that meets the material requirements identified by the buyer and to promote the interests of the buyer.
Advise Seller that the Brokerage is the Representative of the Buyer	At the earliest reasonable opportunity, advise any seller in whose property the buyer is interested that the brokerage is the representative of the buyer.
Act as the Buyer's Representative	Subject to the provisions of the agreement related to a change in representative capacity, act as only the buyer's representative.
Obey Lawful Instructions	Obey all lawful instructions of the buyer.
Fulfill Fiduciary Obligations	Fulfill fiduciary obligations of loyalty, confidentiality, and full disclosure of all conflicts of interest that may arise between the buyer's interests and those of the brokerage, salespersons, sellers, or competing buyers.
Exercise Reasonable Care and Skill	Exercise reasonable care and skill in the performance of any services provided under the agreement.
Seek Out Available Properties	Seek out and advise the buyer in a timely manner of all available properties in the market area that may meet the buyer's requirements. This includes those listed

	with other brokerages, those that are for sale by the owner (FSBO), and other available properties known to the brokerage—without regard to the amount of remuneration being offered.
Discover Relevant and Material Facts	Use the best efforts to discover any relevant or material facts pertaining to any property for which the buyer is considering making an offer.
Disclose Relevant and Material Facts	Disclose in a timely manner to the buyer all relevant or material facts known to the brokerage or salesperson affecting a property or transaction. Any change to the information on properties of interest, such as a reduction in the listing price, should be disclosed to the buyer as this could impact any decisions made. This requirement also includes disclosing the existence of any written statement made by the seller of a property intended to provide information about the property to prospective buyers.
Obtain Expert Advice	Advise the buyer to obtain expert advice on matters of importance to the buyer.
Timely Presentation of Offers and Counter Offers	Present all offers and counter offers to and from the buyer in a timely manner. This is required no matter the contents of the offer. This includes presenting an offer where a seller has already accepted an offer that is conditional because the buyer's offer could contain terms which would place it in a position of being accepted conditional on the previous offer becoming null and void.
Keep Buyer Informed	Keep the buyer fully informed regarding the progress of the transaction.
Disclose Competing Offers	Disclose to the buyer the existence of any competing offers known to the brokerage or salesperson for a property in which the buyer has signed an offer.

Negotiate Favourable Terms	Assist the buyer in negotiating favourable terms and conditions, and in preparing a legally binding agreement of purchase and sale.
Comply with Regulatory Requirements	Comply with all provisions of REBBA, including its Regulations, and all other federal and provincial laws.

Jason has listed Marta's home for sale for \$399,500. At the time, Jason stated the property should sell for about \$390,000. Jason has now received an offer from a buyer who is represented by another brokerage for \$389,000. Prior to meeting with Marta to review the offer, Jason notes two new listings and one sale which occurred yesterday. The information on these properties indicates property values are starting to increase and Marta's property should sell for closer to the listing price.

What actions should Jason take to fulfill his obligations owed to Marta under single representation regarding the offer received?

There are four options. There are multiple correct answers.

1	Provide Marta the new information on the listings and sale and discuss how market conditions may indicate a higher price for her property than the offer received.
2	Explain to Marta she does not have to accept the offer and they can consider other options such as countering the offer at a higher price or rejecting the offer.
3	Present the offer to Marta as soon as possible but also contact other salespersons who have expressed an interest in showing the property to see if any other offers can be obtained for Marta to review at the same time as this offer.
4	Encourage Marta to accept the offer without reviewing any new information because it is close to his original estimate of value and it would mean her property is sold.

Marlon and Jean have called Juan from XYZ Realty Ltd., as they have decided to begin looking for their first home. They have been renting an apartment for years and have saved enough for a down payment. Jean found a property on the internet, and it appears to meet their criteria, but they are unsure of the neighbourhood. Before booking an appointment to show them through this or any other property, Juan wants to discuss how he can help them in their search for a property. They indicate a school district is very important and that although they are not in a hurry to buy, they would not want to miss out on the perfect property.

What should Juan say to Marlon and Jean to demonstrate the benefits of representing them in their purchase?

There are two options. There is only one correct answer.

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| 1 | As your salesperson, I am committed to asking the sellers for more information about the property, its surroundings, or any other information that matters to you. |
| 2 | As your salesperson, I am committed to discovering material facts about the property, its surroundings, or any other information that matters to you. |

Marlon and Jean have called Juan from XYZ Realty Ltd., as they have decided to begin looking for their first home. They have been renting an apartment for years and have saved enough for a down payment. Jean found a property on the internet, and it appears to meet their criteria, but they are unsure of the neighbourhood. Before booking an appointment to show them through this or any other property, Juan wants to discuss how he can help them in their search for a property. They indicate a school district is very important and that although they are not in a hurry to buy, they would not want to miss out on the perfect property.

What should Juan say to Marlon and Jean to demonstrate the benefits of representing them in their purchase?

There are two options. There is only one correct answer.

1	It's also good that you have identified a property that you like; with this information I can negotiate a good price to show you so that you can make an informed decision
2	It's also good that you have identified a property that you like; with this information I can seek similar available properties to show you so that you can make an informed decision

Marlon and Jean have called Juan from XYZ Realty Ltd., as they have decided to begin looking for their first home. They have been renting an apartment for years and have saved enough for a down payment. Jean found a property on the internet, and it appears to meet their criteria, but they are unsure of the neighbourhood. Before booking an appointment to show them through this or any other property, Juan wants to discuss how he can help them in their search for a property. They indicate a school district is very important and that although they are not in a hurry to buy, they would not want to miss out on the perfect property.

What should Juan say to Marlon and Jean to demonstrate the benefits of representing them in their purchase?

There are two options. There is only one correct answer.

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|---|--|
| 1 | Right now, the market is very active, so if you find a property that you like, before we prepare an offer, I'll contact the listing salesperson to see if there are any competing offers already received. |
| 2 | Right now, the market is very active, so if you find a property that you like, before we prepare an offer, I'll contact the listing salesperson to see if there are any surveys available. |

Marlon and Jean have called Juan from XYZ Realty Ltd., as they have decided to begin looking for their first home. They have been renting an apartment for years and have saved enough for a down payment. Jean found a property on the internet, and it appears to meet their criteria, but they are unsure of the neighbourhood. Before booking an appointment to show them through this or any other property, Juan wants to discuss how he can help them in their search for a property. They indicate a school district is very important and that although they are not in a hurry to buy, they would not want to miss out on the perfect property.

What should Juan say to Marlon and Jean to demonstrate the benefits of representing them in their purchase?

There are two options. There is only one correct answer.

1	Things can happen quickly, and there will be times when we are very busy, but I'm obligated to present any offer in a timely fashion, so I will be in touch quite often with the other salesperson.
2	Things can happen quickly, and there will be times when we are very busy, but I'm obligated to tell the listing salesperson your offer price, so I will be in touch quite often with the other salesperson.



Multiple Representation

Multiple representation is when there is one brokerage representing more than one client (seller or buyer). Most commonly, multiple representation arises when two different salespersons within a brokerage represent the seller and buyer respectively in the same transaction or when the same salesperson represents both seller and buyer in the transaction. A brokerage may operate from more than one location, so different salespersons working at different locations for the brokerage would still constitute multiple representation. Additionally, multiple representation occurs when the same brokerage represents two or more buyers who are making an offer to purchase the same property at the same time. In the case of multiple buyers, it may not be clear that a single brokerage is representing multiple buyers until multiple buyers have expressed interest in the same property. In

such situations, consent to the multiple representation would be required when the brokerage becomes aware that it is operating in a multiple representation situation.

Given that an inherent conflict of interest exists between the interests of the seller and the buyer, or competing buyers, multiple representation presents many challenges for a brokerage and salesperson. REBBA has specific requirements for a brokerage when representing more than one client in a transaction. In a multiple representation situation, all parties must be fully informed and provide written consent for the transaction to proceed. If consent is not granted, the brokerage is required to release one of the clients from their agreement so they can seek representation elsewhere.

While navigating through the online module, click the **KMS** button in the Module Resources for tools and information on this topic.



Limitations to Obligations Owed Under Multiple Representation

Multiple representation limits the obligations you, as a salesperson, will owe to your clients. Under single representation, full disclosure exists because salespersons have one priority: the best interests of their client. Under multiple representation, a salesperson cannot look after the best interests of two clients. The disclosure becomes modified; the salesperson may not reveal all of the information known about one client to the other client, nor inform them of everything they might have in a single representation situation because their obligations are to multiple parties with competing interests. A brokerage must ensure that all parties are treated equally, and neither should feel disadvantaged.

When working under multiple representation, the obligations owed are limited to retaining confidential information and not providing advice on the price of the property. For clarity, a brokerage and salesperson may not advise a

seller on the price they should accept, nor advise a buyer on the price they should offer. A salesperson can, however, provide information on comparable properties so the seller or the buyer can make their own informed decisions in this regard.

The given information may not be disclosed, unless instructed in writing by the client to do so, or unless the non-disclosure would result in unethical, illegal, or fraudulent activity:

- The amount the seller might accept, for example, an amount other than the price the property is listed at
- The amount the buyer might pay, for example, an amount other than the price being offered for the property
- The motivation behind the seller's listing of the property or the buyer's purchase of the property
- The personal information of the seller or the buyer, for example, the individual names of all shareholders when a property is being bought or sold by a corporation
- Any information related to previous negotiations of the property, for example, the terms of an offer received by the seller may not be disclosed to the buyer



Disclosure Requirements

Due to the limitations to the services a brokerage and salesperson may provide to a client under multiple representation, REBBA requires specific disclosures to be made to a client or potential client.

Disclosure for multiple representation is best undertaken in two chronological steps:

1. Disclosure before a representation agreement
2. Disclosure before an offer

The following two sections contain information about the benefits of working with a real estate professional.

<p>Disclosure before a representation agreement</p>	<p>Before asking a seller or a buyer to sign a representation agreement, a salesperson is required to discuss various aspects of multiple representation including how this could occur and how the services provided would change.</p> <p>Ideally, this discussion should happen at the first available opportunity when meeting with a seller or a buyer to ensure the limitations are understood before entering into a representation agreement.</p> <p>It is important to remember that representation can be created by the words and actions of a salesperson. Documenting the relationship does not establish the relationship, it merely confirms what the parties have agreed to.</p> <p>Requirements under the Code relating to multiple representation for a salesperson to discuss with a potential client include:</p> <ul style="list-style-type: none"> • The fact that circumstances could arise in which the brokerage could represent more than one client in respect of the same trade in real estate but that the brokerage could not do this unless all the clients represented by the brokerage in respect of that trade consented in writing • The nature of the services that the brokerage would provide to each client if the brokerage represents more than one client in respect of the same trade in real estate
<p>Disclosure before an offer</p>	<p>REBBA states a brokerage cannot represent more than one party to a trade without the written consent of all parties being represented.</p> <p>Therefore, at the point where a brokerage wants to represent more than one client in a trade, the Code requires disclosure of the given matters at the earliest practicable opportunity:</p> <ul style="list-style-type: none"> • The fact that the brokerage proposes to represent more than one client in respect of the same trade • The differences between the obligations the brokerage would have if it represented only one client in respect of the trade and the obligations the brokerage would have if it represented more than one client in respect of the trade, including any differences

	<p>relating to the disclosure of information or the services that the brokerage would provide</p> <p>Only once all parties have provided written consent can a brokerage represent more than one client in the transaction. In situations where a client or clients refuse to consent to operating under multiple representation, the brokerage must release one or more of its clients to seek alternate representation with respect to the transaction.</p>
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If a brokerage represents both the seller and the buyer in respect of the same trade, the salesperson must have a detailed understanding of the limitations that arise to ensure compliance while still providing competent services.

Which descriptions show how multiple representation alters the obligations owed by a brokerage to a seller?

There are three options. There are multiple correct answers.

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|---|---|
| 1 | A salesperson's obligation for full disclosure is limited, such as not sharing the motivation of one party with the other party, even when this is known. |
| 2 | A listing brokerage operating under multiple representation with a seller and a buyer owes its ultimate allegiance and loyalty to the seller, as the seller is typically paying the remuneration. |
| 3 | At all times, the salesperson must refrain from providing advice to the buyer on the price to offer or to the seller on the price to accept. |

Which descriptions show how multiple representation alters the obligations owed by a brokerage to a buyer?

There are three options. There are multiple correct answers.

- | | |
|---|--|
| 1 | Under multiple representation with a seller and a buyer, the buyer's salesperson may not indicate that the buyer will pay more than the offered price, unless instructed in writing. |
| 2 | Under multiple representation where both buyers are being represented by a brokerage and the seller is represented by another brokerage, the brokerage is permitted to disclose the motivations, if known, of the competing buyer. |
| 3 | Under multiple representation with both the seller and the buyer, the salesperson cannot disclose the amount of any offer previously received by the seller. |

Multiple representation is a difficult situation to navigate. Understanding when a relationship is single representation and when it is multiple representation is important as a salesperson must understand when any limitations to their obligations are required.

Identify which of the given statements constitute multiple representation.

There are four options. There are multiple correct answers.

1	A buyer is represented by ABC Real Estate Ltd. and is placing an offer on a property through one salesperson. Another buyer who is represented by a different salesperson in ABC Real Estate's branch office places an offer to purchase the same property.
2	A salesperson from ABC Real Estate Inc. represents two buyers at the same time, in separate transactions involving two different condominium units located in the same building.
3	A seller is represented by one salesperson with XYZ Realty Ltd., and the buyer who wishes to purchase the property is also represented by the same salesperson with XYZ Realty Ltd.
4	A salesperson with ABC Real Estate Inc. is representing a seller in the listing of their property. A buyer is interested in purchasing the property and places an offer through another salesperson at ABC Real Estate Inc. as a customer.

Congratulations, you have completed the lesson!

There are five sections on this page with a summary of the key topics that were discussed in this lesson.

Single representation	Single representation occurs when there is one brokerage representing one client (seller or buyer) within a transaction. Under agency law, this is called single agency.
Obligations under seller single representation	Basic obligations under seller single representation include: <ul style="list-style-type: none">• Marketing the property and promoting the seller's best interests• Advising the buyer that the brokerage is representing the seller• Acting as the seller's representative• Obeying lawful instructions• Fulfilling fiduciary obligations• Exercising reasonable care and skill• Negotiating favourable terms• Disclosing latent defects to buyers• Providing timely presentation of offers and counter offers• Discovering and disclosing relevant and material facts• Keeping the seller fully informed• Obtaining expert advice• Complying with regulatory requirements
Obligations under buyer single representation	Basic obligations under buyer single representation include: <ul style="list-style-type: none">• Locating property and promoting the buyer's best interests• Advising a seller that the brokerage is representing the buyer• Acting as the buyer's representative• Obeying lawful instructions• Fulfilling fiduciary obligations• Exercising reasonable care and skill• Seeking out available properties

	<ul style="list-style-type: none"> • Negotiating favourable terms • Disclosing competing offers • Providing timely presentation of offers and counter offers • Discovering and disclosing relevant and material facts • Keeping a buyer fully informed • Obtaining expert advice • Complying with regulatory requirements
Multiple representation	<p>Multiple representation occurs when there is one brokerage representing two or more clients (seller and/or buyer(s)) within a transaction.</p> <p>For a brokerage to operate under multiple representation, the given disclosures are required:</p> <ol style="list-style-type: none"> 1) Disclosure before a representation agreement (per CODE, Sec. 10) 2) Disclosure before an offer (per CODE, Sec. 16 and O. Reg. 567/05, Sec. 22) <p>If either client does not consent to multiple representation, a brokerage must release one or more of the clients so that they can seek alternate representation.</p> <p>In situations where a brokerage is representing two or more buyers at the same time for the same property, it may not be evident prior to an offer that the brokerage is operating under multiple representation. A brokerage should obtain written consent from each buyer as soon as the brokerage becomes aware that it is operating in a multiple representation situation.</p>
Limitations under multiple representation	<p>Multiple representation limits the obligations a salesperson will owe to all clients. Under multiple representation, a salesperson may not reveal all of the information known about one client to their other client, nor inform them of everything they might have done in a single representation situation, because their obligations are to multiple parties with competing interests. A brokerage must ensure that all parties are treated equally, and neither party should feel disadvantaged.</p> <p>When working under multiple representation, the limitations related to discussing certain topics centre around retaining confidential information, such as the motivation of either party and providing advice on the price of the property.</p>

Lesson 5: Service Options Available to Sellers and Buyers

This lesson introduces the types of agreements used to document a brokerage's relationship with a seller, buyer, landlord, or tenant. It details the obligations of a salesperson to provide information to a seller or buyer before entering into an agreement with the brokerage, and the importance of defining and documenting services as soon as possible in the relationship.



In this lesson, you will be introduced to the types of agreements used to document a brokerage's relationship with a seller and a buyer. The lesson also details the information a brokerage must provide to a client or customer before entering an agreement and the importance of defining and documenting the services being provided under an agreement as soon as possible when establishing a relationship with a seller or a buyer.

Upon completion of this lesson, you will be able to:

- Identify the benefits of working with a salesperson registered with RECO.
- Identify the types of agreements used to document a brokerage's relationship with a seller and a buyer.
- Identify the obligations to provide information before an agreement.
- Identify the importance of defining and documenting services as soon as possible in the relationship.

Throughout this lesson, you will participate in decision points to test your knowledge on the topics presented.



Benefits of Working with a Registered Salesperson

All brokers and salespersons in Ontario are regulated under REBBA, and registered with RECO. As such, working with a registered real estate professional provides sellers and buyers with knowledge, professional standards, and insurance. A real estate transaction is complex, so knowledge about the profession and the regulations impacting the activities of a salesperson results in better services being provided on behalf of a brokerage.

Advantages of Working with a Brokerage

There are three inherent advantages for a seller or a buyer when working with a brokerage.

The following three sections contain information about the benefits of working with a real estate professional.

Knowledge



Since all brokers and salespersons registered with RECO complete extensive education requirements prior to entering the profession, they will have the knowledge to provide the services and guidance that a seller and a buyer need throughout a real estate transaction.

In addition, by completing RECO's Mandatory Continuing Education course every two years, brokers and salespersons ensure they have current knowledge and remain up-to-date with changes to legislation.

A salesperson should also remain up-to-date on current trends and the impact of various factors on the housing market. A change in interest rates, or changes in qualifying for a mortgage can impact a buyer's ability to purchase a property. A salesperson can also provide information not readily available to sellers and buyers such as the number of days on market a property is listed before it is sold and the average selling price of properties in the area.

Professional standards



All registrants must follow the rules and regulations that are in place to protect consumers. The Code governs the actions of all registrants. Brokers and salespersons are required to uphold these obligations and professional standards that emphasize treating everyone involved in a transaction with fairness, honesty, and integrity. If a consumer wishes to file a complaint, RECO will investigate the complaint and if warranted, take steps to hold the brokerage, broker, and/or salesperson accountable for their actions.

Insurance



Deposit insurance provides a buyer with peace of mind, knowing that their deposit will be held in trust and insured against loss, insolvency, or misappropriation by a brokerage. Errors and Omissions insurance, depending on the circumstances of a situation, may provide coverage for a salesperson in the event that they are negligent in performing their duties.

Chris is considering selling his house and has an appointment with Marcel at XYZ Realty Ltd. to discuss the details of listing his property for sale. Chris's neighbour asks him what services the brokerage will provide that Chris could not or would not do himself.

Identify which of the given activities should be performed by Marcel.

There are four options. There are multiple correct answers.

1	An analysis of the current market to help ensure the property is listed and sold at the appropriate price.
2	Preparation of the home for buyers to view by decluttering, organizing, and ensuring valuables are safeguarded.
3	Not interacting with other professionals during the course of a trade, such as the buyer's salesperson or a third-party professional retained by the buyer.
4	Obtaining the buyer's deposit on an offer to be held pending completion of the transaction.



Representation and Customer Service Agreements

The relationship between a brokerage and a seller or a buyer should be documented to ensure the parties understand their obligations. A written agreement allows for clarity in terms of the expectations of a salesperson and brokerage. Depending on the type of relationship established, a salesperson will use a document that is specific to that relationship.

REBBA requires a salesperson to explain to a seller or a buyer, the service options available. At the earliest opportunity, a salesperson is to outline the relationship in a written document, sign it on behalf of the brokerage, and submit it to the seller or the buyer for signing. All agreements that document a brokerage relationship must comply with the Code, which specifies the minimum required content of any written agreement.

This section of the lesson introduces the types of agreements used to document distinct types of brokerage relationships including:

- Representation agreement with a seller
- Customer service agreement with a seller
- Representation agreement with a buyer
- Customer service agreement with a buyer
- Representation agreement with a landlord or a tenant

This lesson also touches on customer service agreements with landlords and tenants.

Types of Agreement Documents

Various agreements can be used when working with a seller or a buyer. You will learn more about the agreement in a later module.

The following five sections contain information about the types of agreements used to document a brokerage's relationship with a seller, a buyer, a landlord, or a tenant.

Representation agreement with a seller	<p>This is an agreement that sets out the relationship between a brokerage and a seller in which the brokerage represents the seller, who is the client. It is commonly referred to as a "listing agreement".</p> <p>The salesperson representing the brokerage is known as the listing salesperson. The listing agreement is used to identify key terms such as the duration of the agreement and remuneration payable.</p> <p>There are further terms, such as permission to place a "For Sale" sign on the property and to specify whether the listing is exclusive to the brokerage or will appear on a local listing service, which allows other brokerages to co-operate in the sale of the property.</p> <p>As you learned earlier in this module, a representation agreement will define the authority granted to a brokerage, as well as any limits on the brokerage's authority.</p> <p>Prior to any offer, a brokerage would ensure a seller representation agreement is signed, presented to the seller for signature, and once signed by the seller, ensure the seller receives a copy immediately.</p>
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<p>Customer service agreement with a seller</p>	<p>In situations where the seller is not being represented by a brokerage, a non-exclusive agreement that establishes a contract between a brokerage and a seller for customer service only can be used. This agreement is used when a seller is selling their property privately and the brokerage is enquiring about the property to show it to a buyer. These sellers are referred to as for sale by owner (FSBO).</p> <p>The agreement is used to:</p> <ul style="list-style-type: none"> • Confirm the brokerage is not the representative of the seller. • Provide the brokerage with the authority to obtain additional information about the property. • Detail the remuneration to be paid by the seller. • Obtain authorization to apply the deposit to reduce the remuneration payable. <p>Prior to any offer, a brokerage would ensure a seller customer agreement is signed, presented to the seller for signature, and once signed by the seller, ensure the seller receives a copy immediately. In instances where the seller is privately offering their property for sale, this agreement is typically negotiated with the seller prior to showing the property to a buyer.</p>
<p>Representation agreement with a buyer</p>	<p>An agreement is used to set out the terms of the relationship when a brokerage is representing a buyer seeking to purchase a property.</p> <p>A buyer representation agreement is an authority granted by a buyer to a brokerage to act on their behalf in locating a suitable property for that buyer on terms and conditions set forth in the representation agreement.</p> <p>This agreement is used to identify key terms, such as the duration of the agreement, the desired property location and property type, and how remuneration is paid under certain circumstances.</p> <p>Prior to any offer, a brokerage would ensure a buyer representation agreement is signed, presented to the buyer for signature, and once signed by the buyer, ensure the buyer receives a copy immediately.</p>

<p>Customer service agreement with a buyer</p>	<p>This is a non-exclusive agreement that establishes a contract between the brokerage and the buyer for customer services only. Typically, this agreement is used when the brokerage is representing the seller and providing customer services only to the buyer. A customer service agreement can also be used when a buyer selects to receive services only rather than being represented by a brokerage. Experienced buyers may select this option regardless of whether the seller is being represented by the same brokerage or another brokerage.</p> <p>The agreement is used to confirm that no remuneration is paid for any customer service provided by the brokerage, unless otherwise agreed to, and confirms that the brokerage is not the representative of the buyer. This requires the buyer to complete more due diligence and investigations into the property and its condition as the brokerage is providing services only and will not be providing any advice.</p> <p>Prior to any offer, a brokerage would ensure a buyer customer service agreement is signed, presented to the buyer for signature, and once signed by the buyer, ensure the buyer receives a copy immediately.</p>
<p>Representation agreement with a landlord or a tenant</p>	<p>An agreement is used to set out the terms of the relationship when a brokerage is representing a landlord or a tenant.</p> <p>These agreements are used when a landlord is being represented in a listing for lease or when a tenant is being represented to find suitable premises to enter into a lease agreement.</p> <p>The agreements are used to identify key terms such as the duration of the agreement and remuneration payable, if applicable.</p>

A salesperson is required to be familiar with the types of agreements available to sellers and buyers and be able to use each agreement when appropriate.

Identify which of the given statements are true.

There are four options. There are multiple correct answers.

1	A seller who is out of town is not available to confirm showings on his listed property. The brokerage should document this relationship using the 'Representation agreement with a seller'.
2	A seller is approached by a brokerage enquiring if the seller will pay remuneration to the brokerage as they have a buyer who is interested in the property. The brokerage should document this relationship using the 'Customer service agreement with a seller'.
3	A first-time home buyer seeks out the advice and guidance of a brokerage when looking at properties for sale and submitting an offer. The brokerage should document this relationship using the 'Customer service agreement with a buyer'.
4	A buyer views a property during an open house and is interested in purchasing the property through the listing brokerage. The brokerage should document this relationship using the 'Representation agreement with a buyer'.



Providing Information Before an Agreement

A salesperson is obligated to provide information to a seller or a buyer before entering into a representation or customer service agreement. Failing to do so may cause confusion regarding the service options available resulting in the selection of the wrong type of relationship with the brokerage. The Code describes the requirements regarding which specific information is to be provided prior to entering into any agreement with a seller or a buyer.



Minimum Required Information Before an Agreement

The Code identifies information a salesperson is required to provide to a seller or a buyer prior to entering into a representation or customer service agreement.

The following seven sections contain information on the specific information to be provided to a seller or a buyer.

Service alternatives	The types of service alternatives that are available to the seller or the buyer include a representation or customer service agreement. Sellers and buyers must understand there are service alternatives rather than misunderstanding they have no options except for the relationship with a brokerage.
Services being provided	The services that the brokerage would provide under the agreement can be tailored specifically to each seller or buyer. The agreement would detail the specific services the salesperson is agreeing to perform for the party. Documenting these services prevents misunderstandings between the party and the brokerage.
Multiple representation	The seller and buyer must be advised that circumstances could arise in which the brokerage could represent more than one client in respect of the same trade in real estate, but that the brokerage could not do this unless all the clients represented by the brokerage in respect of that trade consented in writing.
Representation and obligations	Representation and obligations are the nature of the services that the brokerage would provide to each client in the possible event that the brokerage represents more than one client in the same transaction. This identifies the limitations to the services when operating under multiple representation.
Representation and customer service	Representation and customer service identifies that circumstances could arise in which the brokerage could, in respect of the same trade in real estate, represent clients as well as provide services to customers.
Service limitations	Service limitations arise from the restricted nature of the services that the brokerage would provide to a customer in respect of a trade in real estate if the brokerage also represents a client in respect of that trade.
Obtaining written acknowledgement	The brokerage must, at the earliest possible opportunity and before an offer is made, use its best efforts to obtain a written acknowledgment that information regarding the required disclosures has been received.

Rohit wants to purchase a property and has contacted a salesperson, Tamara. Rohit has not purchased a property before, so Tamara is meeting with him for the first time and wants to discuss the service options available to Rohit when working with her brokerage.

Which of the given choices include information Tamara is required to discuss with Rohit before Rohit signs a representation or customer service agreement?

There are four options. There are multiple correct answers.

1	The restricted nature of the services that Tamara, on behalf of the brokerage, would provide to Rohit if Rohit wanted to make an offer on a property where the brokerage is representing the seller.
2	The specific services that Tamara, as Rohit's salesperson, will provide to him, including any customized requests from Rohit and confirmation that these services will be documented in writing in the agreement.
3	The relationship options available for Rohit, including a client or a customer.
4	A statement identifying that the brokerage will not enter into an agreement with another party that might cause risks or conflicts of interest within their agency relationship with Rohit.



Defining and Documenting Services as Soon as Possible

Whether a representation relationship is formed, or a brokerage is providing services to a customer, an understanding by all parties of the obligations, authority, and limitations to any authority being granted is important. Defining this as soon as possible will contribute to the parties fully understanding and complying with their obligations. In the course of any relationship, salespersons and their clients or customers can communicate in various ways about what the terms of the relationship will be, from face-to-face interactions to phone calls to emails. Ultimately, in order for there to be a clear consensus of the terms and conditions of the relationship, and to fully understand the services the salesperson will provide, there needs to be explicit or written documentation concerning all matters.

As a salesperson, you may agree to various levels of service with each seller or buyer. As you are obligated to provide conscientious and competent service, you must define and document services in a timely manner and provide explicit and efficient communication with each seller and buyer. By doing so, you reduce any risk of providing less than expected services for your clients and customers.

Benefits of Defining and Documenting Services as Soon as Possible

The following two sections contain information about why it is important to define and document services as soon as possible in the relationship.

To avoid situations where an implied agreement is unintentionally created based on the words and actions of a salesperson



An implied agreement can be unintentionally created based on the words and actions of the salesperson, which can lead the seller or the buyer to believe there is an express agreement when there is not.

Once that relationship is created, there are many obligations and duties owed to a client.

To avoid this situation, it is important to explain the services being provided so there are no misunderstandings by the seller or buyer. Documenting the relationship in writing will provide a clear record of the expectations and requirements of all parties.

Cautionary Example:

Roger has listed his property with Seema's brokerage and Seema has fully explained her duties to Roger as a client.

Seema hosts an open house at Roger's property where she engages Bruno, a prospective buyer, in conversation. Bruno appears very interested in purchasing a property,

and Seema is hopeful he will want to purchase this one. As presently there are no other visitors at the open house, Seema begins to have a general discussion on market conditions, house prices, and details how much a typical mortgage payment might be on this listing.

Bruno responds by suddenly providing information about his financial situation and how much he would be willing to pay for Roger's property. Despite Seema's attempts to redirect the conversation, Bruno tells Seema she appears very knowledgeable and, whether he purchases this property or another one, he would like her to be his salesperson.

Even though Seema tried to stop Bruno from telling her these things, she is now possibly in a position of unintended multiple representation. It appears Bruno may believe he is working with Seema, even though they have not discussed and decided on the scope of their relationship. Bruno may logically assume that what he has shared with Seema will be kept confidential.

Seema must now decide how to address this situation. She will need to consider:

- If Bruno purchases the property, can she treat him as a customer? If so, Seema would not owe him confidentiality and in fact would be obligated to share what she has learned with her client, the seller.
- If the information provided by Bruno is not considered confidential, then Seema can ensure no

additional information is shared and have a discussion with Bruno about representation.

- If Seema's words or actions led Bruno to believe he was being represented by Seema and thus shared some confidential information, Seema may need to work under a client relationship, which results in multiple representation.

This situation could have been avoided had Seema initially identified she is representing the seller and enquired if Bruno is working with any other salesperson. This would have provided Seema an opportunity to discuss relationship options and ensure Bruno understood where her loyalties are. This may have stopped Bruno from sharing confidential information until they could come to an agreement on whether he would be a client or a customer.

To reduce the risks inherent in a seller or a buyer misunderstanding the services to be provided



Documenting the brokerage relationships is an important aspect of reducing the potential for any misunderstanding between the brokerage and the seller or the buyer.

Cautionary Examples:

- The brokerage could be placed in a position where the courts will need to determine whether an agency relationship has been established under a particular set of circumstances. This could expose the brokerage to litigation and can result in the loss of any remuneration payable to the brokerage.
- The reputation of the salesperson and the brokerage have potential to be harmed from a misunderstanding around services to be provided.
- To reduce risks to the brokerage, a salesperson should ensure the services being provided and the obligations owed by all parties under the agreement are explained and documented as soon as possible when entering into a relationship with a seller or a buyer.

Mickey is a salesperson who is holding an open house at Carlos' property he has listed for sale. Kris is a visitor to the open house and Mickey spends time discussing the property and answering many questions for Kris. Kris is not working with another brokerage, so Mickey leaves his business card with Kris and offers to talk further if Kris has any additional questions.

If Kris calls Mickey to discuss this property further, what should Mickey's next steps be?

There are four options. There are multiple correct answers.

1	If Kris wants to proceed with an offer on Carlos' house, Mickey can let Kris know about the different service options available in his brokerage.
2	Mickey should remind Kris that his brokerage represents the seller and caution Kris not to share any confidential information.
3	Mickey can provide Kris with factual information about the property but he should not provide any advice until a service alternative has been decided on.
4	Mickey should wait until Kris is ready to place an offer and then complete all of the required documentation to confirm the relationship between the brokerage and Kris.

Congratulations, you have completed the lesson!

There are four sections on this page with a summary of the key topics that were discussed in this lesson.

Benefits of working with a registered salesperson	<p>Any client or customer with whom registered salespersons interact can benefit from:</p> <ul style="list-style-type: none">• Knowledge to address the complexities of a real estate transaction• Professional standards to ensure all parties are treated with fairness, honesty, and integrity• Insurance protection for buyer's deposits and for errors and omissions <p>Salespersons can and should share these benefits with clients and customers in order to reassure them that their skills will help them successfully buy or sell properties.</p>
Types of agreements used to document a brokerage's relationship	<p>There are several different types of agreements with sellers, buyers, and landlords or tenants. These agreements document the terms of the relationship established between the brokerage and other parties, allowing the salesperson—on behalf of the brokerage—to fulfill their responsibilities.</p> <p>Agreements with sellers:</p> <ul style="list-style-type: none">• A representation agreement with a seller provides details regarding the agency relationship. A customer service agreement with a seller identifies a non-agency relationship and is typically used when a seller is privately selling their property. <p>Agreements with buyers:</p> <ul style="list-style-type: none">• A representation agreement with a buyer provides details regarding the agency relationship. A customer service agreement with a buyer is a non-exclusive agreement with a buyer. <p>Agreements with landlords or tenants:</p> <ul style="list-style-type: none">• A representation agreement with a landlord or tenant provides details regarding the agency relationship.

Obligations regarding providing information before a brokerage relationship agreement	<p>The Code requires a brokerage to disclose the following information before entering into an agreement with a seller or buyer and to use their best efforts to obtain a written acknowledgment that these disclosures have been made at the earliest opportunity and before an offer is made:</p> <ul style="list-style-type: none"> • Available service alternatives • Brokerage services provided under the agreement • Potential for multiple representation and the obligation to obtain consent in writing • Nature of the services when representing more than one client • Potential to provide services to more than one customer • Potential to represent a client and provide services to a customer • Restricted nature of the services provided to a customer
Importance of defining and documenting services in a timely fashion	<p>For a salesperson to provide competent service to consumers in their daily activities, they must understand the importance of defining and documenting services as early as possible in the relationship.</p> <p>Client relationships can begin based on the words and actions of a salesperson, which may result in the unintentional creation of a multiple representation situation.</p> <p>Documenting the brokerage relationships is an important aspect of reducing the potential for any misunderstanding between the brokerage and the seller or the buyer. Misunderstandings can impact a brokerage and salesperson's reputation.</p>

Lesson 6: Providing Services to a Seller

This lesson outlines the services a brokerage and salesperson could provide when representing a seller or when providing services to a seller under a customer service agreement.



Once a seller decides to become a client or a customer, they continue to make choices that will involve the salesperson. A client may select from a range of services when they enter a relationship with the brokerage. While services provided to a customer are more limited than those provided to a client, a customer seller can still benefit from working with a registered salesperson. No matter what, a salesperson is required to provide knowledge, expertise, skill, and professionalism throughout all aspects of a real estate transaction.

Upon completion of this lesson, you will be able to:

- Outline the services a salesperson can provide when representing a seller.
- Outline the services a salesperson can provide to a seller under a customer service agreement.

Throughout this lesson, you will participate in decision points to test your knowledge on the topics presented.



Outlining Services for a Seller Client

As part of establishing an agency relationship, a salesperson must explain the available services the brokerage can provide under an agreement. In your role as a salesperson, the services you will offer to the seller can vary depending on the needs of each seller. There are options available to a seller client for full services or a la carte service, the latter being an option where there is a fee attached to each specific service being requested by and provided to a client.

Explanations of these service options should aim to demonstrate the value of the service. These can be summarized in a brochure used by the brokerage, but it is not appropriate to provide reading material only. You will need to explain the options available and answer any questions the seller may have so they understand specifically how these services will be provided to them.

The process of listing, marketing, and negotiating an offer has many steps and can often be daunting. Setting expectations for the extent of the services being provided not only helps to avoid any misunderstanding about the role you will play in supporting the seller, but can also help to ease any anxiety they may have about selling their property.

Sellers may wish to select from the available service options, or the seller may select full services from the brokerage. Whatever the choice, documenting the services is a necessary first step. Next, we will review some key services a brokerage can offer a seller client.



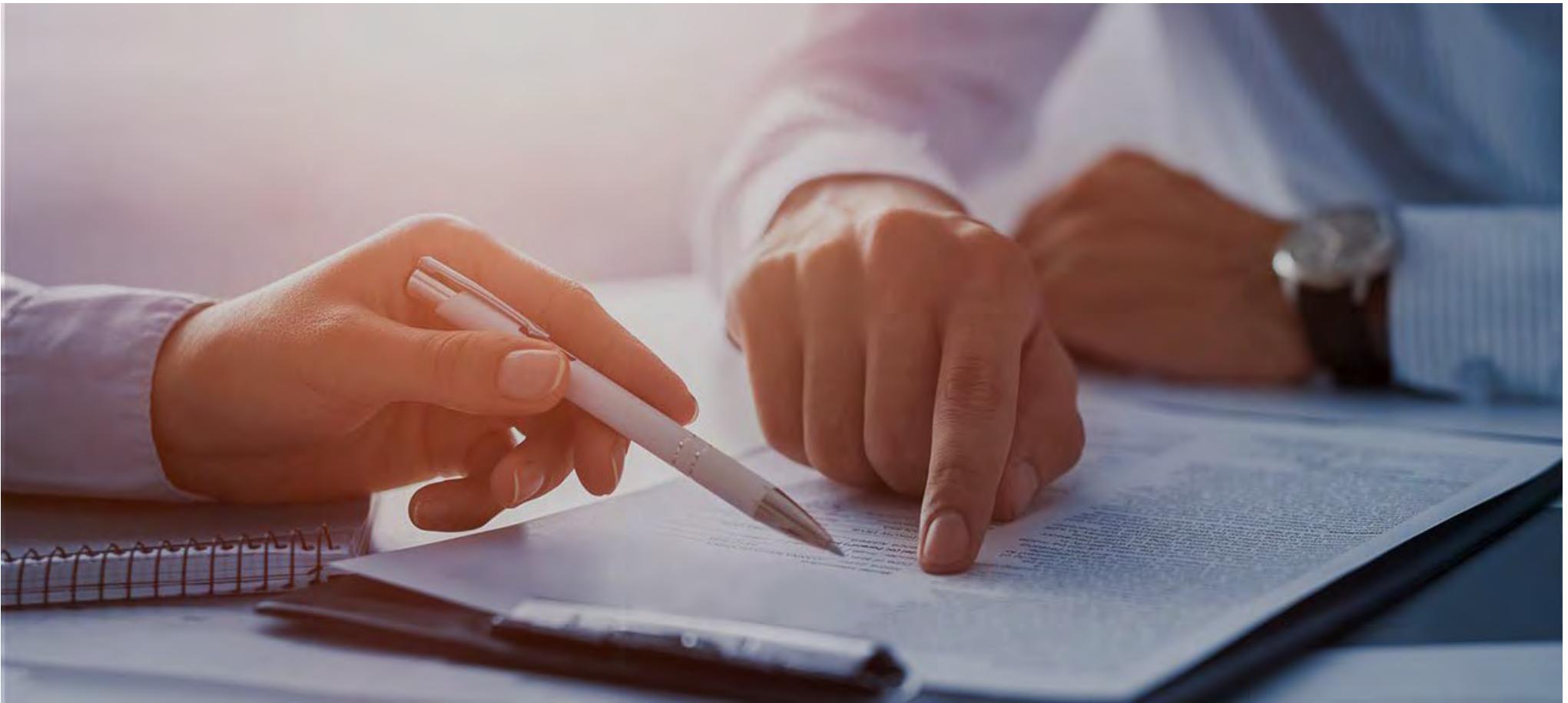
Due Diligence

A salesperson is relied upon to provide thorough and professional services when representing a seller throughout a transaction. This can be done by understanding the seller's objectives and ensuring all advice, guidance, and activities promote their best interests.

Completing the due diligence required by a salesperson includes:

- Confirming the seller has made all necessary disclosures, as required by law
- Discovering all relevant information and material facts regarding the transaction
- Making appropriate disclosures to other parties, as required
- Demonstrating competence, skill, and judgement when providing opinions, advice, or information
- Referring a seller to third-party professionals when the advice or opinion is beyond the education or experience of a salesperson

Due diligence obligations begin before any relationship with a seller has been established and continue throughout and after a seller has accepted an offer on their property. As a salesperson, you will be expected to be conscious of the duties and obligations owed to a seller and ensure these have been complied with, when providing services before and after any representation agreement has been signed.



Services for a Seller Client

Whether this is the first time you have worked with the seller, or you have represented the seller in a previous transaction, as a salesperson, you will need to review the service options available from the brokerage. The services you will provide and the obligations you will be required to meet are interrelated and help ensure the seller's goal of selling their property is satisfactorily completed. There are many variations of services available for a seller. The given table identifies some of the typical services a salesperson could provide. Details about these activities are presented on the given screens.

While navigating through the online module, click the **KMS** button in the Module Resources for tools and information on this topic.

Pre-Listing	During Listing	Offer Transaction Management
<ul style="list-style-type: none"> Conduct a visual walkthrough Gather and verify key information related to the property Identify and disclose any material facts Explain marketing options Estimate the value of the property to arrive at an accurate listing price Explain selling costs Advise on property preparation 	<ul style="list-style-type: none"> Accurately list the property Explain the process for showings Implement the marketing plan Qualify buyers based on seller's directions Ensure all required disclosures are made by the seller Coordinate showings Explain offer process Be aware of competing listings and recent sales Update on market conditions 	<ul style="list-style-type: none"> Confirm offer process Analyze, advise on, and negotiate offers Coordinate buyer's inspections or viewings Follow up on conditional dates and closing Manage post-transaction relationship

Pre-listing

Pre-listing activities occur prior to the actual listing of the property.

The following seven sections contain information on the common pre-listing services a salesperson could provide to a seller. While there is a suggested flow of services outlined in the page, they do not need to necessarily take place in this order.

Conduct visual walkthrough



A salesperson should complete a thorough visual tour by walking through the home as well as the entire property with the seller. A working knowledge of the property is essential, and attention to detail when viewing the property will help to build rapport with the seller.

If asked to list the property for sale, there will be information identified on the day of the walkthrough that will be required to market the property. This is the start of your due diligence as this visual walkthrough can help to identify material facts or identify any other aspects of the property that would require disclosure to a buyer, assess any issues that will need to be addressed prior to listing the property, and familiarize yourself with the property so that any opinion of value or an appropriate listing price is based on accurate information.

Detailed notes should be taken so these can be referred back to at a later time. Some of the property features that should be noted include:

- Lot (size, shape, landscaping, and quality of any improvements such as a fence or deck)
- Structure (age, condition, and overall appeal)
- Features and benefits (upgrades, renovations, and unique aspects which would be highlighted in the listing)
- Concerns (defects, safety hazards, and repairs needed to enhance the property's marketability)

Having a candid and open conversation with the seller is important. Acknowledge the selling features of the property, but also ensure any defects or safety hazards are discussed, and detail what action should be taken to address these. If additional inspections or advice is required, refer the seller to third-party professionals with expertise in the specific field.

A thorough and detailed viewing of the property with a seller provides an opportunity to build a relationship, gain their trust and confidence in your abilities, and ensure their insights into the property and the neighbourhood are used to promote their best interests.

Gather and verify key information about the property



When listing the property, a salesperson will need to gather key information, which is used for the marketing of the property and any offer made. A seller may provide information as they should have the documentation from the purchase of the property. However, additional information will be needed, and the information must be accurate and complete. This will require a salesperson to do additional research to verify and supplement the property information provided by the seller.

For example, if a seller has not provided a deed or survey, a salesperson can review registry, tax, assessment records to verify various aspects of the property including ownership, legal description of the property, and the lot size.

By verifying information that is gathered about the property, a salesperson can reduce the risk of error, misrepresentation, and fraud.

Identify and disclose any material facts



As you learned earlier, disclosing material facts is an integral part of providing conscientious and competent service. A salesperson has specific obligations related to material facts. From a seller's perspective, a material fact would include anything related to selling the property and the price received.

A salesperson should compare what they learn through research with what they would have observed during the walkthrough and the information provided by the seller to be sure they are able to identify and disclose all of the material facts required.

Explain marketing options



Sellers will want to know what efforts will be taken to increase the exposure to the marketplace of their property, so you as a salesperson, will need to explain their marketing strategy. Brokerages may offer specific marketing for all properties with additional marketing provided by way of a flat rate marketing package or fee-for-service options.

In addition to placing the property on the local listing service (if applicable), marketing options can include:

- Promoting via the website
- Conducting an open house

- Providing a virtual tour
- Making use of professional photography, professional home stagers, flyers, and signs

Some sellers may have inputs or certain requests, which the salesperson should try and incorporate into their marketing plan.

Provide opinion on property value



A salesperson can assist the seller in arriving at an appropriate listing price by providing an estimate of the property's market value or by preparing a comparative market analysis. You will learn more about this in a later module.

The overall goal is to provide the seller with information on comparable properties and—based on this research, the salesperson's education, and their professional knowledge—provide the seller with an opinion of value and ideas about the appropriate listing price.

Although the seller is relying on a salesperson's knowledge and expertise, ultimately it is the seller who selects the listing price.

Explain selling costs



This service helps the seller understand that there will be expenses and costs associated with paying out any existing mortgage, or other adjustments to be deducted from the sale price to arrive at the proceeds from the sale.

A salesperson should explain the nature of these additional costs and expenses when selling the property, so the seller can budget for such costs as moving fees, legal fees, and remuneration to brokerage. As a note, sellers should be made aware that any remuneration paid is subject to HST.

Salespersons will need to reinforce to the seller that this is an estimate only, and the seller needs to be certain that they have enough financial resources to close the sale.

Advise on property preparation



When viewing the property, there may be specific ways the property can be prepared for the sale, which will help improve the marketability. This can be part of the services a brokerage offers, or it could include a professional to stage the property.

A seller may require guidance to properly prepare for the property to be shown. The seller should understand that a buyer's request to view the home could happen immediately after the property has been listed. It is better to delay the listing by a few days than to market the property before it is ready.

Make any recommendations diplomatically and provide a to-do list with suggestions to enhance the property's marketability.

Abigail, a property owner, is considering selling her house and a friend recommended she contact Frank, a salesperson employed by ABC Real Estate Inc. Abigail contacts Frank to arrange an appointment to meet later in the week. During the conversation, Frank describes several services he can initially provide which will help Abigail to prepare for the listing of the property.

What services and information can Frank obtain in advance to provide Abigail during their meeting?

There are five options. There are multiple correct answers.

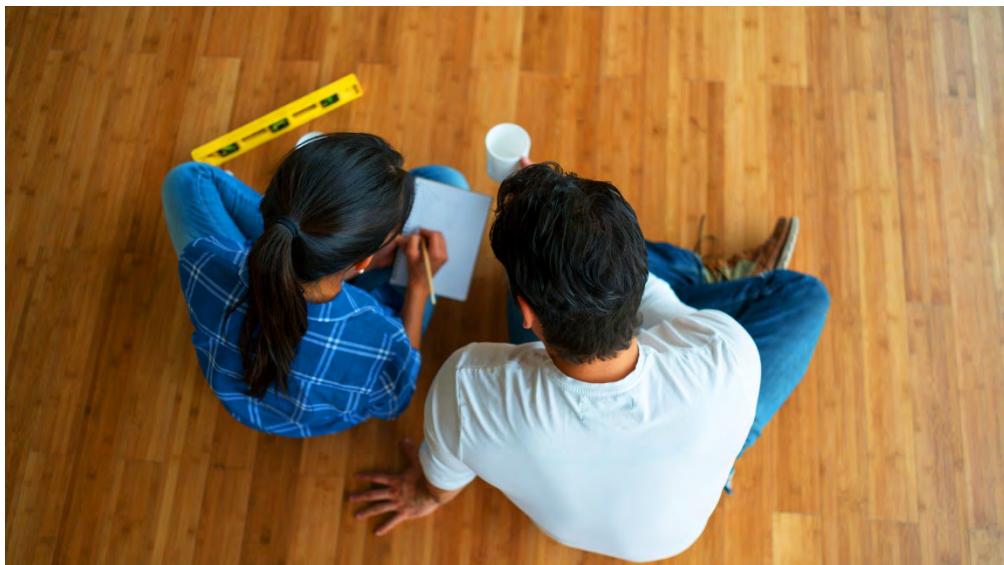
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|---|--|
| 1 | Ask Abigail a series of questions about her property and provide an opinion on the listing price based on this information before viewing the property. Ensure the listing price is high enough so that Abigail is not discouraged about meeting with Frank. |
| 2 | Conduct additional research to supplement information provided by Abigail about the property. The research can then be discussed and verified during his first visit. |
| 3 | Rely on his colleagues at the brokerage to validate the information provided by Abigail based on their sales experience. |
| 4 | Explain to Abigail that she must ensure all repairs, painting, or other updates need to be done prior to his visit so that his estimate of value is more accurate and any photos taken will be reflective of the property condition. |
| 5 | Let Abigail know he will need to do a visual walkthrough of the property to gain information before providing his opinion of value for Abigail's property. |

During Listing

There are several services available to a seller client during the listing process, as discussed previously.

The following five sections contain information on the services a salesperson will provide during the listing.

Accurately list the property



Review the seller representation agreement with a seller before it is signed, and ensure the seller fully understands its contents. Salespersons are responsible for explaining all clauses in their entirety in plain language to each seller. Confirm the obligations of both parties, and that the services being provided by the brokerage are complete.

Any information related to the property specifics that will be used in the marketing of the property and for obtaining an offer must be accurate and complete. The listing price should be finalized based on the input from the salesperson and a final decision by the seller.

Explain the process for showings



A seller may have never offered a property for sale, so an understanding of how this will occur will help the seller to maintain the property. A buyer could request a showing with little notice, so discuss the importance of the home always being ready to show by keeping it bright, clean, and uncluttered.

Explain how the showings will occur so the seller is confident that showings will be handled professionally. Identify options for providing access to the property, including the safeguards put in place if a lock box will be used. A seller may want confirmation that the showing did occur, so a request to have all salespersons leave a business card following the showing might be included in a listing.

Implement the marketing plan



Marketing plans can be tailored to each property, so ensure the seller understands what will be done, and document this in the seller representation agreement.

Keep the seller informed during the various stages of implementing the marketing plan and keep track of the results throughout the process so the seller is aware of the progress and initiative the salesperson is taking on their behalf.

Qualify buyers based on seller's directions



Some properties may result in a seller requesting only qualified buyers are to view. This could occur when a property is well above the average price for an area, and the seller is concerned about privacy. Buyers may choose to view the property out of curiosity, so a salesperson listing the home may need to ensure that prospective buyers have the financial means to purchase it. The salesperson can do that by asking the buyers or their representatives qualifying questions.

Ensure all required disclosures are made by the seller



A seller is required to disclose certain defects that are known to the seller. These are described as latent defects and a salesperson is required to ensure the seller understands their legal obligations.

A discussion about non-required disclosures should also be held with the seller. There may be other aspects of the property the seller would like the buyer to be made aware of. Any disclosures being made by the seller should be in writing and provided to any interested buyer prior to an offer.

You will learn more about this in a later module.

During Listing

There are several services available to a seller client during the listing process, as you have seen previously.

The following four sections contain information on the services a salesperson will provide during the listing.

Coordinate showings with seller



A salesperson should explain how any requests to show the property will be handled. The processes should be agreed to by the seller, including how notification of any showing will be handled (namely, if the salesperson will be booking the appointments personally or if this will be done through the brokerage office).

A salesperson should also consult with the seller on their ability to accommodate scheduled showings or if there are specific times when they would like to restrict viewing.

The seller should understand that access to the property can occur with little notice, and it is important to provide buyers with as much convenience in scheduling appointments as possible. A delay in showing the property to a buyer could result in the buyer purchasing a property before viewing the seller's home.

Explain offer process



Prior to any offer presentation, a salesperson should explain how the process could occur. There are various ways for offers to be presented, such as in person or electronically. When the offer is being presented in person, the seller should be asked if they have any preference for who is in attendance, such as if the buyer's salesperson is permitted.

Understanding this process in advance will help the seller prepare for the actual receipt of an offer.

Be aware of competing listings and recent sales



Market activity is an important factor that must continually be monitored during the listing period. A salesperson must look for specific signs which could result in a change to the terms of a seller's listing.

Review the seller's listing based on the given criteria:

- What properties have been listed and at what price?
- What sales have occurred, what was the selling price, and how did they compare to this property?
- How many properties are on the market in competition with this listing?

- Are there more or fewer properties available today?
- Have the competing listings reduced their listing price?
- Have the average number of days required to market a property extended or shortened?

Being fully informed and capable of providing an analysis on this important information is an integral part of the services a brokerage can provide.

Update on market conditions



A seller will expect to be kept informed on any changes in the market that could affect the sale of their property. For example, a change in interest rates can impact a buyer's ability to afford a home. Other legislative changes could impact the market activity as well. Different seasons in the year can see an increase or decrease in market activity. Keeping the seller informed will result in less stress for a seller when there are discussions about the listing price or the offered price from a buyer.

Frank met with Abigail in his office and after completing the pre-listing process, Abigail decided to list her property with ABC Realty Inc.

What does Frank need to communicate to Abigail in order to formalize the listing?

There are six options. There are multiple correct answers.

1	Review the services the brokerage will provide under the agreement before it is signed.
2	Explain all clauses in the agreement and ensure Abigail understands the authority granted to the brokerage.
3	Abigail must agree to the listing price suggested by Frank, even if it is lower than Abigail had wanted.
4	Ensure Abigail understands the agreement and her obligations to the brokerage related to remuneration and indemnification.
5	Discuss the listing options and whether other brokerages will be permitted to show the property to buyers and obtain an offer.
6	Ensure Abigail obtains a property inspection prior to listing the property which will be used to verify the condition of the property.

Hannah is discussing the listing of her property with Gael, a salesperson with XYZ Realty Ltd. Hannah is downsizing and indicates she is really hoping there are sufficient proceeds from the sale of her property so she can pay some expenses and have a down payment for another purchase. She is not just eager to obtain the highest price that she can on her property, but also needs to sell her property within a reasonable time.

What do you recommend Gael do to help Hannah establish an appropriate listing price and successfully market the property?

There are five options. There are multiple correct answers.

1	Advise Hannah to list the property substantially higher than the value to allow for negotiations with a buyer.
2	Prepare a comparative market analysis.
3	Advise Hannah to keep the property clean and uncluttered.
4	Advise Hannah to check for a salesperson's business card after each showing as the listing will indicate this requirement.
5	Advise Hannah that any disclosures regarding property defects will be disclosed only once an offer has been received.

Offer Transaction Management

The offer process and what comes after, the post-transaction period, include many services a salesperson will provide to seller clients.

The following five sections contain information on these services.

Confirm offer process	<p>When the brokerage has been notified there is an offer to be presented to the seller, arrangements will be made based on any previous instructions received from the seller.</p> <p>The salesperson will confirm how the offer will be presented, and if it is to be personally presented with the buyer's salesperson in attendance, arrive early, and ensure the seller is prepared.</p> <p>A salesperson is required to ensure any offer is presented to the seller in a timely manner and according to the seller's instructions.</p> <p>Each offer will include a time and date which identifies the length of time the party has to accept an offer. Once that time expires, the offer can no longer be accepted. This time is referred to as the irrevocable time period. Based on market conditions, the irrevocable time period can change, but should be at a minimum several hours and can extend up to several days. You will learn more about this in a later module.</p>
Analyze, advise on, and negotiate offers	Negotiations can become complex and emotional. A salesperson's role is to review the offer, ensure the terms of the offer are fully understood, and then discuss the seller's options. At all times, the salesperson should guide the seller through the negotiation process and ensure the seller's best interests are being protected when analyzing and advising on offers.

	<p>Although some offers are less complex and appear straightforward, others may contain complex clauses, which could require the seller to do something, guarantee or warrant something, or pay for something. All offers and clauses need to be reviewed and explained to ensure the seller understands their obligations if the offer were to be accepted.</p> <p>A seller may not agree with the terms of a buyer's offer, and this will require a salesperson to provide the appropriate advice when making any changes. A seller must understand that if they do not accept the buyer's offer and make changes to it, the buyer is under no obligation to accept those changes. Negotiations can include several rounds of offers between the parties, before the terms are mutually agreed upon. There can be times when the parties cannot agree to the terms and an offer that has been sent back and forth between the parties results in no sale.</p> <p>Before making any decision on addressing an offer, ensure the seller is aware of any relevant details that may affect their decisions. This would include contacting any other salespersons with prospective buyers who may be considering making an offer, and providing the seller with an updated report on recent listings and sales of comparable properties.</p>
Coordinate any required inspections/viewings	If the accepted offer includes any terms or conditions that require access to the property to complete any due diligence on behalf of the buyer, a salesperson will ensure that any additional appointments necessary are made and access is provided by the seller. Access could be for third-party professionals such as a home inspector or for any buyer follow-up visits agreed to in the offer.
Follow up on conditional dates and closing	<p>A salesperson will be the point of contact to arrange appointments and to monitor the completion of any terms or conditions within the scheduled time frame.</p> <p>There could be circumstances prior to completion where either party may request an amendment to a term or condition of the offer. In such circumstances, the listing salesperson will assist not only in further negotiations but in documenting the agreed-upon revisions. Changing the completion date is something that might be amended.</p>

	<p>Otherwise, a salesperson will act as a resource as needed once an offer is accepted, answering questions that may come up prior to completion.</p> <p>Although some questions will be easily handled by a salesperson, others may need to be addressed by the seller's lawyer and a salesperson should be mindful to provide competent service without overextending themselves beyond their knowledge and experience.</p>
Manage the post-transaction relationship	<p>The services provided by a salesperson will not end at completion of the transaction. To maintain the relationship, they will want to follow up with the seller to ensure there are no additional services needed. A follow-up will not only demonstrate your professionalism but also helps to maintain a salesperson's relationship for future business.</p>



Negotiations

An important aspect of a salesperson's services is negotiating offers. From a high-level point of view, there are four potential outcomes in a negotiation scenario:

- Win-Win: Everyone's objectives are met in a positive manner. The seller obtains market value; the buyer receives the sought-after property.
- Win-Lose (or Lose-Win): The seller wins by successfully selling his home at or close to asking price. The buyer, disregarding certain problems with the property, must make significant repairs after taking possession.
- Lose-Lose: Both seller and buyer fail to achieve a meeting of the minds and everyone loses. The seller misses the opportunity to sell to the best buyer; the buyer fails to get the desired property.
- No outcome: Some negotiations become stalemated and have no result; the seller decides not to sell, and the buyer exits having second thoughts about the financial commitment. Both parties may re-negotiate at a later time or advance to other win-wins. The challenge for a new salesperson is readily identifying the no outcome.

At all times, a salesperson must provide conscientious and competent service to the seller. Any advice must only be provided when a salesperson has the education or experience required to provide the advice. Negotiations can become emotional, and decisions can be made that are not based on sound reasoning. A salesperson's role is to guide the seller through the process and ensure the seller has all the information required to make fully informed decisions.

Frank, the listing salesperson representing Abigail on behalf of his brokerage, has received a phone call from a salesperson who showed Abigail's property earlier in the week. The salesperson has an offer which they will email to Frank for him to present to Abigail that evening. Frank is also expecting another offer from a buyer who viewed the property today, so Frank contacts that salesperson but has to leave a message. When Frank meets with Abigail to present the offer, she is unsure about the offer price and some of the terms.

Which of the given services should Frank provide to help Abigail make her decision?

There are four options. There are multiple correct answers.

1	Explain to Abigail that if she changes the offer, the buyer may not agree to these terms, resulting in her not selling the property to this buyer.
2	Discuss with Abigail the option of submitting a counter offer back to the buyer through the buyer's salesperson with a higher purchase price and revised terms.
3	Encourage Abigail to accept the offer despite not having heard back from the other salesperson because this would mean her property is sold.
4	Advise Abigail on the pros and cons of the offer and depending on the irrevocable time period in the offer, ensure she does not make a hasty decision.



Sub-agency

As you learned earlier, agency is the relationship between a principal and an agent. The brokerage, as an agent, allows employed salespersons to perform activities related to the principal as the salespersons are an extension of the brokerage. As such, all salespersons within the brokerage represent the principal under the same agency relationship as the brokerage. Although seldom used in today's real estate environment, extending the ability to represent the principal to another brokerage can occur. The other brokerage would then be deemed a sub-agent of the brokerage who has established the relationship with the principal.

In practice, sub-agency occurs when the seller is a client of the listing brokerage and a co-operating brokerage has a buyer who is a customer; the co-operating brokerage in a sub-agency relationship owes fiduciary duties to the seller and represent the interests of the seller rather than the buyer. The co-operating brokerage would treat the buyer as a customer and provide ethical and competent service but owe no fiduciary duties such as confidentiality. Prior to the existence of buyer representation, a buyer's brokerage always worked under sub-agency. The sub-agent owes all of the same general, fiduciary, and regulatory obligations to the principal, as does the agent.



Seller Customers

As the previous screens have demonstrated, there are many benefits for a seller to be represented by a brokerage. An experienced and knowledgeable salesperson can guide a seller through every step of the selling process, lending their expertise and helping the seller make critical decisions with their valuable input. However, there are times when a seller may not need the extent of services that a salesperson can offer a client. In fact, some sellers choose to limit their relationship with a brokerage to customer services for various reasons. The next few screens explore these reasons and the specifics of available seller customer services.



Becoming a Seller Customer

There are several reasons why a seller may select customer service rather than representation including:

- The seller has previous experience in selling a property and feels they can negotiate the terms successfully without a brokerage.
- The seller does not want to formally list their property for sale, although they do want buyers to know it is available. This would be called a For Sale by Owner.
- The seller is looking for any cost savings associated with reduced services.

Often, a customer service agreement with a seller occurs when the seller is privately selling their property and a brokerage is representing a buyer who is interested in purchasing the property.

When approaching a private seller, a salesperson would identify their brokerage has an interested buyer. The salesperson is not attempting to list the seller's property for sale but rather negotiate an offer on the buyer's behalf with the seller. The brokerage would ensure the seller clearly understands the brokerage is not representing them but rather providing customer services.

The next few screens detail the types of services a brokerage can provide to a seller customer.



Seller Customer Services

A seller must understand the impact of the limited services provided under a seller customer service agreement. A brokerage and salesperson are not obligated to act in the best interests of the seller customer but must still treat them fairly, honestly, and with integrity. In other respects, the same obligations under REBBA apply to the salesperson when providing customer services as when representing a seller.

The typical activities a salesperson would perform when providing services to a seller customer include:

- Explaining relationship and service options to the seller
- Documenting the customer service agreement
- Showing their property to the brokerage's buyer
- Presenting offers to the seller customer that have been prepared on behalf of the buyer
- Delivering counter offers to the buyer on behalf of the seller customer

Identify which of the given obligations are owed to both a client and a customer.

There are four options. There are multiple correct answers.

1	Explain service options and document the relationship.
2	Present a buyer's offer.
3	Disclose any material facts to the seller.
4	Advise the seller on a listing price or offer price.

Congratulations, you have completed the lesson!

There are four sections on this page with a summary of the key topics that were discussed in this lesson.

Services available to seller clients	<p>Working with a registered salesperson can have many benefits for a seller client. The property selling process has many steps and can often be daunting, especially for first-time sellers.</p> <p>Therefore, it is important for salespersons to help sellers understand that they can assist with the transaction during the pre-listing, listing, and offer transaction management process.</p> <p>Services may include, but are not limited to:</p> <ul style="list-style-type: none">• Setting their expectations about all available services• Advising on property preparation• Identifying and disclosing any material facts• Estimating the value of the property to arrive at an accurate listing price• Coordinating showings• Analyzing, advising on, and negotiating offers• Following up on conditional dates and closing• Managing post-transaction relationship
Negotiations for seller clients	<p>A salesperson's role is to guide the seller through the process and ensure the seller has all the information required to make fully informed decisions. At all times, a salesperson must provide conscientious and competent service to the seller. Any advice must only be provided when a salesperson has the education or experience required to provide the advice.</p> <p>Negotiations have four potential outcomes:</p> <ul style="list-style-type: none">• Win-Win

	<ul style="list-style-type: none"> • Win-Lose or Lose-Win • Lose-Lose • No outcomes <p>A salesperson should be aware of these outcomes and ensure the seller understands the potential outcome based on the negotiation stance they take.</p>
Sub-agency	<p>In practice, sub-agency occurs when the seller is a client of the listing brokerage and a co-operating brokerage has a buyer who is a customer; the co-operating brokerage in a sub-agency relationship owes fiduciary duties to the seller and represent the interests of the seller rather than the buyer. The co-operating brokerage would treat the buyer as a customer and provide ethical and competent service but owe no fiduciary duties such as confidentiality.</p>
Services available to seller customers	<p>There are times when a seller may not need the extent of services that a salesperson can offer a client. In fact, some sellers choose to limit their relationship with a brokerage to customer services for various reasons.</p> <p>Services available to seller customers include:</p> <ul style="list-style-type: none"> • Explaining relationship options to the seller • Documenting the customer service agreement • Showing their property to the brokerage's buyer • Presenting offers to the seller customer that have been prepared on behalf of the buyer • Delivering counter offers to the buyer on behalf of the seller customer

Lesson 7: Providing Services to a Buyer

This lesson illustrates the services a brokerage and salesperson could provide when representing a buyer or when providing services to a buyer under a customer service agreement.



Buyers can greatly benefit from working with a salesperson registered with RECO. While the scope of services will differ significantly between a client and a customer, buyers will benefit from working with a registered salesperson who can provide knowledge, expertise, skill, and professionalism throughout every aspect of a transaction.

A salesperson must ensure a buyer understands the extent of their relationship with the brokerage, including all available service options.

The next few screens explore the available services throughout the buying process. Many of these are similar to those available to seller, while others are specific to buyers. In addition, when representing a buyer, all services should be in their best interests.

Upon completion of this lesson, you will be able to:

- Outline the services you as a salesperson can provide when representing a buyer.
- Outline the services you as a salesperson can provide to a buyer under a customer service agreement.

Throughout this lesson, you will participate in decision points to test your knowledge on the topics presented.



Providing Services to a Buyer Client

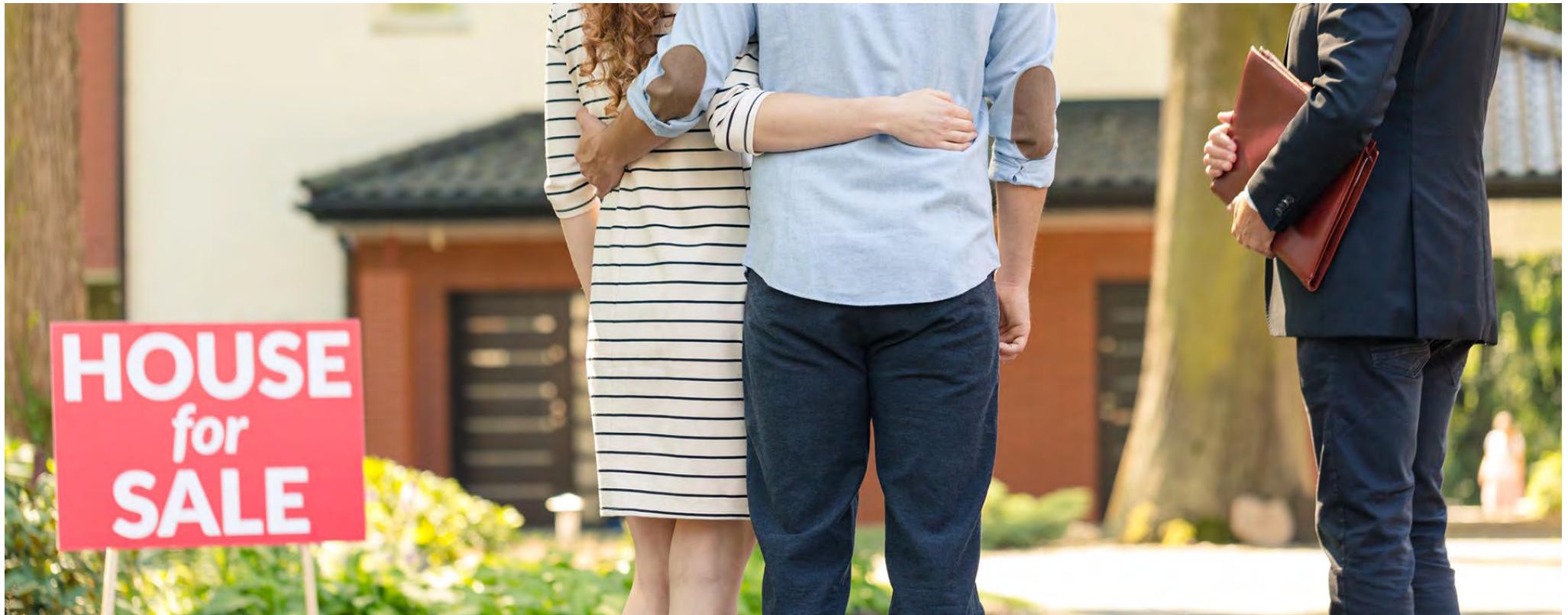
A salesperson can provide many services when representing a buyer throughout the stages of searching for and purchasing a property.

Pre-Showing	Showing Properties	Managing the Transaction
<ul style="list-style-type: none">• Discuss and identify the buyer's needs and wants• Outline all costs the buyer may incur• Pre-qualify the buyer	<ul style="list-style-type: none">• Show properties• Obtain information about the neighbourhood, schools, transit, etc.• Discover and disclose all material facts	<ul style="list-style-type: none">• Provide information on comparable properties• Draft, present, and negotiate offers• Assist in the buyer's due diligence

<ul style="list-style-type: none"> • Seek out appropriate properties • Inspect properties in advance • Verify all information 	<ul style="list-style-type: none"> • Provide update on market conditions • Follow up on a property that was of interest 	<ul style="list-style-type: none"> • Accompany the buyer on pre-closing visits • Provide assistance before and after closing • Provide post-transaction management and follow-up
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While carrying out all these services, the Code dictates that salespersons will provide conscientious and competent service to their clients while providing opinions backed by reasonable knowledge, skill, judgement, and competence.

While navigating through the online module, click the **KMS** button in the Module Resources for tools and information on this topic.



Buyer Qualification, Suitable Properties, and Conducting Viewings

A salesperson has the same obligations under the Code when representing a buyer that they have when representing a seller. However, the application of these requirements will differ as the activities associated with a buyer can be unique from those for a seller. A salesperson must continue to work in a buyer's best interests, provide conscientious and competent service, and ensure all properties meeting their criteria are shown, regardless of the remuneration offered.

The following six sections contain information on salesperson's obligations to the buyer.

Discuss and identify the buyer's needs and wants	<p>A salesperson should gather information about a buyer's preferences for their new home including their desired location, type and style of home, and any particular features they are looking for. Through effective questioning and listening, a salesperson can help a buyer establish priorities and differentiate between what they need and what they want, all of which can be documented in a profile.</p>
Outline all costs the buyer may incur	<p>A salesperson should inform a buyer—especially a first-time home buyer—of the range of costs they will likely incur when purchasing their new home. Buyers may not be aware of costs such as legal fees, land transfer tax, and various adjustments made on the closing costs that are apportioned between the seller and the buyer.</p> <p>Providing this information upfront can help a buyer avoid any unexpected surprises and ensure sufficient funds are available to complete a transaction.</p>
Pre-qualify the buyer	<p>A salesperson should encourage the buyer to speak with a lender who can discuss financing options, gather financial information from the buyer, and provide parameters for a purchase price based on the amount of financing available.</p> <p>The buyer could obtain a pre-approval for financing, given their income and current and future debt repayment schedule. The lender will also discuss the buyer's down payment requirements, which is monies the buyer must have available to them to make a purchase.</p> <p>Based on this information, a salesperson can look for properties in a price range that is aligned with the buyer's preferences and financial capacity.</p>
Seek out appropriate properties	<p>A salesperson can use a variety of methods to search for properties that meet a buyer's criteria. These methods can include searching the local listing services, driving through the desired neighbourhoods to see if there are any listings available, reviewing advertisements, checking with the brokerage for any exclusive listings, and putting out flyers.</p> <p>As per the Code, a salesperson is obligated to inform a buyer of all properties that meet their criteria regardless of the amount of remuneration being offered. This requirement is only for a buyer who has a client relationship with the brokerage.</p>

	and not when a buyer is a customer. As one of the obligations owed to a brokerage by a client is remuneration, the brokerage is required to show all properties of interest to the buyer client. As a salesperson, you would ensure the buyer is made aware of any remuneration obligations they would have, should the property be purchased prior to showing the property to the buyer.
Inspect properties in advance	If feasible, a salesperson should inspect properties prior to showing them to the buyer to assess suitability, familiarize themselves with the layout and features, and take note of anything that might warrant additional investigations or discussion with the buyer prior to arranging to show the property.
Verify all information	A salesperson must verify that any information they rely on is verified. This would include information from other brokerages as well as information provided by a seller. This is particularly important in the case of a property being offered for sale privately by the owner (FSBO). In these situations, another brokerage has not validated the information presented by the seller, so additional due diligence is important to ensure the buyer's interests are being protected. Any disclosures provided by the seller, such as a disclosure regarding the condition of the property, should be obtained and reviewed with the buyer to ensure the information is understood and assessed. This could impact the buyer's decision to pursue making an offer on the property or obtaining third-party professional advice to address the disclosure being made.



Showing Properties

Once a buyer has identified the property specifics and a salesperson has found suitable properties to show, booking appointments to view these properties will occur. Scheduling these appointments must take several things into consideration, such as their location, travel time, and time to view the property. When scheduling several properties in a row, it is important to factor these considerations in. A seller will have the property set aside for the viewing; keeping the appointment and arriving on time is important.

The following five sections contain information about services to a buyer client related to showing properties.

Show properties	Once a salesperson has located suitable properties for a buyer, they accompany and assist them during the showings, which may also include showing a property to a buyer during a brokerage's open house.
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	<p>Obtain information about the property and provide a copy for the buyer to review. As a salesperson, making notes while showing the property to the buyer will assist in recalling the property's features at a later date. After viewing several properties, the features of one home may become mixed with the features of another.</p>
Obtain information about the neighbourhood, schools, transit, etc.	<p>When discussing a buyer's needs and wants, part of that discussion could include the important aspects of a neighbourhood or property location to the buyer. A salesperson should then gather information about the buyer's desired neighbourhood(s) and be able to point out how this property also provides these desired amenities.</p> <p>For example, a salesperson could point out the location of schools, shopping, medical facilities, proximity of public transit, and any other features. This will help the buyer to prioritize which neighbourhoods best meet their needs.</p>
Discover and disclose all material facts	<p>As you learned in an earlier module, a salesperson needs to first discuss what the buyer considers to be a material fact. This includes asking the buyer to provide examples of facts which would impact their decision to purchase a specific property or the price paid.</p> <p>As a salesperson, it is your role to ensure any material fact for a buyer has been discovered and disclosed to them to ensure the buyer can make informed decisions.</p>
Provide update on market conditions	<p>A salesperson should keep a buyer aware of any updates to market conditions as well as how active the market is. An active market can mean properties are listed and sold in a very short time period. If a buyer is not ready to act, they may lose out on a property. Other changes can include changes in interest rates, or any changes in legislation.</p>
Follow up on a property that was of interest to a buyer	<p>If a buyer was interested in a property but has decided to continue looking, it is helpful for a salesperson to continue to follow up on that property.</p> <p>For example, a property may have been previously viewed, but the buyer felt the listing price was too high. When the listing price is reduced, the salesperson should be contacting the buyer to see if there is any renewed interest in the property.</p>



Managing the Transaction

Working with a buyer to find a suitable property can be a lot of work and can take weeks or even months. Once the buyer has found a property they would like to purchase, a salesperson will provide additional services throughout the transaction. A buyer will rely on the salesperson's skillset to help negotiate an offer on favourable terms.

The following six sections contain information about services to a buyer client related to managing the transaction.

Provide information on comparable properties	<p>A salesperson can provide the buyer with information on sales of comparable properties and draw comparisons to the buyer's chosen property to establish an accurate assessment of market value. In addition, a comparison of the chosen property to those properties also viewed will assist the buyer with their decision on the appropriate offer price. The buyer has viewed these other properties and can easily make the comparison rather than relying only on information and no visual perspective.</p>
Draft, present and negotiate offers	<p>In compliance with the Code, when the buyer is at the offer stage, a salesperson can offer these services:</p> <ul style="list-style-type: none"> • Preparing offers and advising on conditions, clauses, warranties, and other terms • Attending the offer presentation whenever possible to promote the buyer's best interests (as opposed to sending the offer to the listing salesperson by email or fax) • Negotiating the offer on behalf of the buyer
Assist in completing the buyer's due diligence	<p>These services can include:</p> <ul style="list-style-type: none"> • Keeping track of time limits of any conditions in an offer • Attending a home inspection with a buyer • Arranging for an appointment for an appraiser to view the property if an appraisal is required for mortgage purposes • Preparing the necessary documentation for a buyer based on the results of any condition in the offer • Assisting the buyer in obtaining home insurance by providing information about the property
Accompany buyer on pre-closing visits	<p>A buyer's offer may contain terms allowing the buyer to attend the property for various reasons prior to the transaction closing. The buyer may want to bring in a contractor to obtain quotes, or the buyer may simply want to view the property prior to closing to ensure it has been appropriately maintained.</p> <p>Any visit to the property would need to be arranged with the seller/seller's salesperson, and at all times, the buyer needs to be accompanied by the salesperson.</p>

Assistance before and after closing	<p>A buyer could require assistance throughout the time period leading up to the transaction closing, as well as assistance once they have taken possession of the property.</p> <p>Any legal queries should always be referred to the buyer's lawyer. However, some questions can—and should—be addressed by the salesperson. Ensuring the salesperson is available to assist the buyer both before and after closing is important in establishing and maintaining a relationship with the buyer.</p>
Provide post-transaction management and follow-up	<p>These services can include:</p> <ul style="list-style-type: none"> • Making a follow-up call or visit to ensure that the buyer is fully satisfied with the outcome of the services • Assisting with follow-up issues such as missing garage door openers, utility connections, or other small incidental issues that can arise

Salesperson Poppy has been working with her buyer client, Brian, to find a new home. They find a property and Poppy prepares an offer. The seller is dissatisfied with the offer and proposes a counter-offer. Poppy reviews the counter-offer with Brian and she advises him that the seller's offer is in line with the price of comparable properties recently sold. Brian is not sure.

Which actions are appropriate for Poppy to take in order to provide conscientious and competent service to Brian?

There are four options. There are multiple correct answers.

1	Discuss the terms that Brian is unsure of and then continue to negotiate the offer towards terms that are better suited for Brian.
2	Review the other properties that Brian viewed to make a comparison between those and this property in terms of price, features, and desirability.
3	Complete or update a comparative market analysis to give Brian more context to understanding market conditions and property values when assessing the seller's counter-offer.
4	Recommend that Brian meet directly with the seller to discuss the terms of the offer and better understand the seller's rationale.

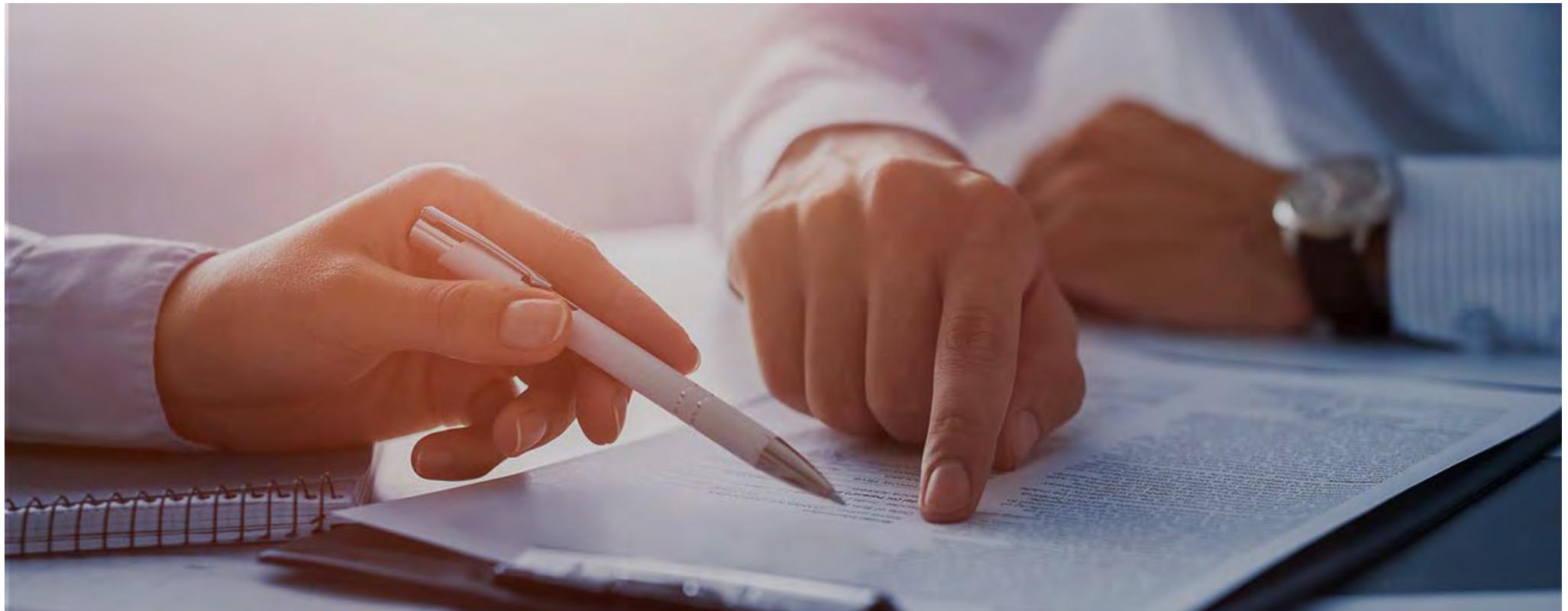


Buyer Customers

Buyers do not always become clients of a brokerage; they can be customers with limited services available to them. This commonly happens when a brokerage is the listing brokerage for a seller client and a potential buyer approaches them about the listing. When this happens, the buyer in question often becomes a customer of the brokerage and receives limited services from the brokerage. A customer relationship might arise in other circumstances too; a buyer with real estate experience might only want to work with a brokerage as a customer as they do not require many of the other services or advice a brokerage could provide.

As with any relationship the brokerage engages in, the Code dictates a level of fairness and honesty that the brokerage must maintain. The given points describe the limited services owed to a buyer customer:

- Treating the party fairly, ethically, and with integrity
- Exercising due care when answering questions and providing information
- Avoiding misrepresentation



Buyer Customer Services and Limitations

Understanding the limitations to the services provided to a buyer customer is important. Providing advice or overstepping these limitations can unintentionally turn a customer relationship into one of a client.

Services Available to Buyer Customers	Limitations to Buyer Customers
A salesperson should disclose information regarding material facts that they know or ought to know, which can affect the buyer's decision to purchase the property.	A salesperson is not obligated to research or verify property defects.
A salesperson should prepare and present offers from the buyer customer to the seller.	A salesperson cannot provide advice to the buyer, including what price to offer or what terms to include in an offer.

A salesperson should facilitate general communication between the buyer customer and the seller.	A salesperson is not obligated to act in the best interests of the buyer but is required to treat the buyer fairly, honestly, and with integrity and take due care when answering questions. This would include ensuring any information about the property is accurate.
A salesperson should maintain contract management throughout the transaction.	A salesperson is not obligated to keep the buyer's information confidential. In fact, if the salesperson is representing the seller, any information about the buyer must be disclosed to the seller. However, the buyer must be told this in advance before any information about the buyer is shared by the salesperson.

A salesperson is showing an older house to a buyer customer. The basement is unfinished and appears to have water damage, among other issues.

Which of the following should the salesperson do for the buyer customer?

There are four options. There is only one correct answer.

- | | |
|---|---|
| 1 | Disclose the possible water damage issue to the buyer. |
| 2 | Verify the information about the basement provided by the property seller through inquiring about the damage. |
| 3 | Conduct additional research about the condition of the basement. |
| 4 | Advise the buyer customer on an appropriate way to negotiate with the seller. |

Identify which of the given obligations are owed to a client only.

There are four options. There are multiple correct answers.

- | | |
|---|---|
| 1 | Ensure information regarding any material facts are determined and disclosed to the buyer. |
| 2 | Show all properties that meet the buyer's criteria, regardless of any commission being offered. |
| 3 | When conditions warrant, recommend a property inspection be completed by a professional. |
| 4 | Advise the buyer on whether they should accept, reject, or counter a seller's counter offer. |

Congratulations, you have completed the lesson!

There are two sections on this page with a summary of the key topics that were discussed in this lesson.

Available services for buyer clients	<p>Working with a registered professional can have many benefits for a buyer client. The property buying process has many steps and can often be daunting, especially for first-time buyers.</p> <p>Therefore, it is important for you as a salesperson to help clients understand that you can assist with the transaction in the given ways:</p> <ul style="list-style-type: none">• Set their expectations about all available services• Help the buyer find properties within their price range and attend open houses with them• Provide due diligence when it comes to discovering and disclosing material facts about a property• Provide information on comparable properties to assist in arriving at an offer price• Draft, present, and negotiate the agreement of purchase and sale in favour of the buyer• Guide clients through satisfying terms and conditions, leading to the transfer of ownership upon completion date• Follow up with clients after transactions to ensure that the process was satisfactory
Buyer clients versus buyer customers	<p>Services available to buyer customers are much more limited than those available to buyer clients. Even so, some buyers enter into this type of relationship with a salesperson for the given reasons:</p> <ul style="list-style-type: none">• The buyer is interested in a property for which the salesperson is already representing the seller

- The buyer wants to avoid commitment to the brokerage
- The buyer is experienced in real estate purchases

As a salesperson, you are required to treat all parties with integrity and carry out all interactions with honesty. It is important for you to understand the limitations of a customer relationship so as not to mislead customers about your services.

Lesson 8: Obligations when Dealing with Others

This lesson details the brokerage's obligations when dealing with other brokerages and their clients.



A significant aspect of acting ethically and professionally as a salesperson is knowing the requirements regarding dealings with other brokerages and salespersons. Compliance with this aspect of REBBA guides how a salesperson goes about their day-to-day interpersonal activities and communications. The reputation of a brokerage depends on each salesperson upholding a high standard in their everyday dealings.

Throughout this lesson, you will participate in decision points to test your knowledge on the topics presented.

Ensuring Compliance When Interacting With Sellers and Buyers

A salesperson must follow guidelines set by the Code when communicating with sellers and buyers when a brokerage has established a relationship with them, or they are a party to an agreement of purchase and sale.

The following four sections contain information on regulations in place to guide how to communicate with sellers and buyers working with other brokerages.

Communicating with a client of another brokerage



The Code establishes that if a salesperson from a brokerage other than the listing brokerage wants to convey information to the seller or ask a question of the seller, that salesperson must only communicate with the seller through the listing brokerage. The exception to this rule is if the listing brokerage has given written permission for a salesperson to communicate directly with the seller.

The same is true if a salesperson has a buyer client and another salesperson from a different brokerage wishes to communicate with the buyer; this must be done through the buyer's brokerage unless written permission has been given to communicate directly with the buyer.

Though not a requirement under the Code, it is a generally accepted practice that other salespersons in a listing brokerage's office would only communicate

with a seller through the listing salesperson. The same is true of a buyer client.

An offer is usually submitted to the listing salesperson/brokerage by the buyer's salesperson. It is important that all information is communicated, and all documents are delivered from one brokerage to the other brokerage, never from a brokerage directly to another brokerage's client.

The Code states:

"A registrant who knows or ought to know that a person is a client of another registrant shall communicate information to the person for the purpose of a trade in real estate only through the other registrant, unless the other registrant has consented in writing."

Inducing a party to break an existing contract



One provision makes it a violation in any way to induce a seller or buyer to break an existing contract they have with another brokerage.

The Code states:

"If a broker or salesperson knows or ought to know that a seller or buyer is a party to an agreement in connection with a trade in real estate with a brokerage other than the brokerage that employs the broker or salesperson, the broker or salesperson shall not induce the seller or buyer to break the agreement."

Example: A salesperson is approached during an open house by an individual who states they have their property listed for sale with a different brokerage. The individual states they are unhappy with the services being provided and would like to cancel the listing and have the salesperson discuss a new listing.

The salesperson advises the individual to speak directly with the listing brokerage and hopefully resolve any problems. The salesperson ensures there is no indication the individual should cancel the listing.

Breaking agreements of purchase and sale



The provision that states a salesperson must not interfere by inducing a seller or a buyer to break an agreement includes not only representation or customer service agreements, but also agreements of purchase and sale.

The Code states:

“No registrant shall induce any party to an agreement for purchase and sale or an agreement for rental of real estate to break the agreement for the purpose of entering into another such agreement.”

Example: A salesperson is conducting an open house and an interested buyer is viewing the property. The buyer states they have an accepted offer on a property already, but this property is more appealing, and they

would like to know how to cancel their existing agreement of purchase and sale.

The salesperson tells the buyer they cannot provide any advice related to this and to contact their salesperson.

Fairness, honesty, and integrity



Remember that fairness, honesty, and integrity should be at the core of every relationship a salesperson has with all other parties. It is just as important to incorporate this into interactions with salespersons from other brokerages, all clients and customers of other brokerages, and all third-party professionals a salesperson interacts with throughout a trade.

The Code states:

“A registrant shall treat every person the registrant deals with in the course of a trade in real estate fairly, honestly, and with integrity.”

Henri, a salesperson, attends a friend's dinner party. During the social time leading up to the meal, Henri is approached by Danielle, who currently has her property listed for sale with another brokerage. During the conversation, Danielle is discussing market conditions in the neighbourhood and mentions that she is not having the property shown very often and it has been on the market for a long time. Danielle tells Henri that she is not happy with the services being provided by her brokerage and wants to cancel the listing agreement because it is not expiring for another two months.

How should Henri respond to Danielle's statement?

There are three options. There is only one correct answers.

1	Henri should ask questions about Danielle's property to learn more about the listing and whether it is overpriced. If Henri feels that the price is appropriate, then it must mean the listing brokerage is not performing adequately, and Henri should advise Danielle to cancel the listing.
2	Henri should tell Danielle that he cannot get involved with this situation, given that it involves a client relationship with another brokerage. Henri should advise Danielle to speak directly with the listing brokerage and hopefully resolve any problems.
3	Henri should give Danielle his business card and recommend that she discuss her dissatisfaction with the listing brokerage and insists on changing the expiry date to one week later. This would allow Henri time to gather information, search for a buyer, and then list the property with his brokerage.

Congratulations, you have completed the lesson!

There are four sections on this page with a summary of the key topics that were discussed in this lesson.

Communicating with a client of another brokerage	A salesperson from a co-operating brokerage must convey information to the seller or ask a question of the seller through the listing brokerage, and not directly with the seller. The exception to this rule is if the listing brokerage has given written permission for a salesperson to communicate directly with the seller. The same is true if a salesperson has a buyer client and a salesperson from a different brokerage wants to communicate with this buyer. Any offer should be submitted to the salesperson working with the seller or the buyer, and never directly to the party themselves.
Interfering with client relationships of other brokerages	It is a violation for a salesperson, in any way, to induce a seller or a buyer to break an existing representation agreement they have with another brokerage.
Breaking agreements of purchase and sale	Salespersons must not interfere by inducing a seller or a buyer to break an existing agreement of purchase and sale. This might occur if the party thought the salesperson could negotiate a better offer on a different property.
Fairness, honesty, and integrity	Fairness, honesty, and integrity should be at the core of every relationship a salesperson has with all other parties. This would include a salesperson's interactions with sellers, buyers, salespersons from other brokerages, as well as other brokerage's clients and customers, and any other person in the course of a trade.

Lesson 9: Summary Practice Activities

These practice activities summarize concepts from throughout the module.



This lesson will ask you to practice applying many of the concepts you have learned so far in this module. It is your responsibility as a salesperson to employ these skills during your interactions with sellers and buyers.

Throughout this lesson, you will participate in decision points to test your knowledge on the topics presented.

Identify which of the given statements are true for the given scenarios.

There are three options. There is only one correct answer.

1	A salesperson has advertised they are experienced in selling cottage properties. The salesperson is approached by a buyer who asks if the salesperson could show them a waterfront property listed for sale with another brokerage. The salesperson agrees, shows the buyer the property, and provides advice about the listing price and any conditions to be included in an offer. In this scenario, an agency relationship is created by implied agreement.
2	A salesperson and a potential buyer are discussing the new changes that are being made to obtain financing as lenders are tightening the criteria for approval. The salesperson is given confidential financial information from the potential buyer as they are concerned they would not qualify for a mortgage. The salesperson reviews this information and suggests the buyer should proceed with looking at properties, but might consider approaching a lender first. In this scenario, an agency relationship is created by express agreement.
3	Jarod and Arnie are both salespersons and they are speaking about a buyer that Jarod is working with. Jarod describes a specific type of property and states there are none listed that match the criteria. Arnie says he knows of a property that is ideal and will arrange for the property to be shown. Arnie approaches the seller who agrees to allow the property to be shown. An offer is then made and Arnie presents it to the seller, who accepts the offer. In this scenario, an agency relationship is created by ratification.

Mac, a salesperson with XYZ Realty Ltd., is working with Sam, who is looking to buy a house. Before the representation agreement is signed, Mac explains the actual and implied authorities associated with their relationship by providing examples of what activities he would complete on Sam's behalf.

Identify which of Mac's actions is likely undertaken by express authority.

There are four options. There is only one correct answer.

1	Mac explains he will review many of the property listings from a local listing service and then select the most appropriate five properties for Sam to initially view.
2	Mac explains he will gather and provide information regarding different school districts to Sam to help him when considering which properties could be suitable for him to purchase.
3	Mac explains the representation agreement is between himself and his brokerage, and he will be the individual assisting Sam in his search for a property.
4	Mac explains Sam is retaining the brokerage for the next 60 days to locate properties meeting his criteria.

Which of the given scenarios exceeds the limits of authority granted to a brokerage who is listing a property and placing it on the local listing service?

There are three options. There is only one correct answer.

1	A seller client has a luxury property. Their salesperson decides to advertise the property in an expensive and exclusive magazine. The salesperson tells the seller that they need to be reimbursed for the cost of advertising.
2	A salesperson lists a property for their seller client. They advertise the property on social media without informing the seller.
3	The listing salesperson allows a salesperson from a cooperating brokerage to submit an offer from their buyer on the seller client's property.

Chet is the listing salesperson with XYZ Realty Ltd. and Asma, who is looking to buy a house, visits an open house Chet is holding. Chet informs Asma that he represents the sellers and asks Asma if she is working with a salesperson. Asma surprises Chet by saying that she isn't and starts to explain her situation, including some personal financial details. Chet interrupts her and warns her that she should not be sharing these details with him, and any disclosures of pertinent information could create a conflict of interest for him, including a potential violation of his fiduciary obligations to his seller client. Asma asks Chet to explain what he means by that.

How should Chet handle this situation to comply with his fiduciary obligations?

There are three options. There is only one correct answer.

1	Inform Asma that since he is representing the seller, she would be treated as a customer if there is no written documentation, or he can represent her as a client, but only if it is documented in writing.
2	Tell Asma that if he treats her as a customer, he will be able to continue advising her about the purchase of the property.
3	Explain that brokerages should avoid any conflicts of interest whenever possible. For example, he could avoid a conflict of interest by not representing Asma as a client if she decided to purchase this property.

Identify which of the given circumstances are examples of duty of care in a real estate transaction.

There are three options. There are multiple correct answers.

1	A salesperson, when listing a property, obtains the lot dimensions verbally from the seller as no survey is available.
2	A buyer customer, while viewing a property with a salesperson, asks the salesperson if they know the age of the property or if there are any local improvements. The salesperson reviews the listing and confirms the information with the listing salesperson. The salesperson provides the information to the buyer and also recommends they complete their own additional due diligence if the crack in the basement is a serious problem. The salesperson recommends that the buyer should obtain the advice of an expert.
3	A buyer client informs the salesperson that he would like to purchase a property but would like to be assured he can obtain financing before being committed to the purchase. The salesperson drafts an offer and inserts a condition into the agreement allowing the buyer time to confirm they can obtain financing.

Miguel is the listing salesperson for Vivien who has signed a seller representation agreement with ABC Realty Estate Inc. Miguel is showing the property to Irma, a buyer customer interested in the property. The house is newly renovated with the exception of the finished bedroom in the attic, which suffered water damage from a leak in the roof last year. The damage is not easily seen, but the seller has disclosed this to Miguel.

Which of the following should Miguel do for Irma?

There are four options. There are multiple correct answers.

1	Disclose the possible water damage issue to Irma and recommend further inspection of the area to determine the extent of the damage.
2	Verify the information about the attic provided by Vivien and make sufficient inquiries to be able to provide accurate information about the damage.
3	Conduct additional research about the condition of the attic and advise Irma on next steps.
4	Advise Irma on an appropriate way to negotiate with Vivien to seek compensation for the water damage in the form of a price reduction.



Congratulations, you have completed the lesson!

Module Summary

This lesson contains a summary of the entire module and a list of helpful resources available in the Knowledge Management System.



Congratulations, you have completed this module!

This lesson will present a summary of Learning Objectives and a list of helpful resources that you can search for in the Knowledge Management System.

There are eight sections on this page with a summary of the key topics that were discussed in this module.

Identify the fundamentals of agency	<p>The terms used in REBBA can differ from the terms used under the common law of agency and within the marketplace. A salesperson should understand how these terms are used and ensure sellers and buyers understand the terms as they can have a significant impact on their relationship with the brokerage.</p> <p>An agency relationship can be created by express agreement, which is either written or verbal. It can also be created through words and actions of the parties, which is an implied agency relationship. A salesperson must understand how an agency relationship can be created so that they do not unintentionally establish a client relationship with a customer where it was not intended. This would result in unintended multiple representation.</p> <p>There are many ways in which an agency relationship with a brokerage can be terminated. At times, the termination will automatically occur. Other times, specific actions by the parties must occur for the relationship to be terminated.</p> <p>Completion of this lesson has enabled you to:</p> <ul style="list-style-type: none">• Define terms related to agency law• Describe how an agency relationship can be created• Describe how an agency relationship can be terminated
Identify the authority granted to a brokerage	<p>When entering into a representation agreement with a seller or a buyer, there are actual authorities granted to the brokerage. Stemming from these actual authorities are implied authorities. The implied authorities are those undertaken by the brokerage to be able to fulfill the actual authorities granted.</p>

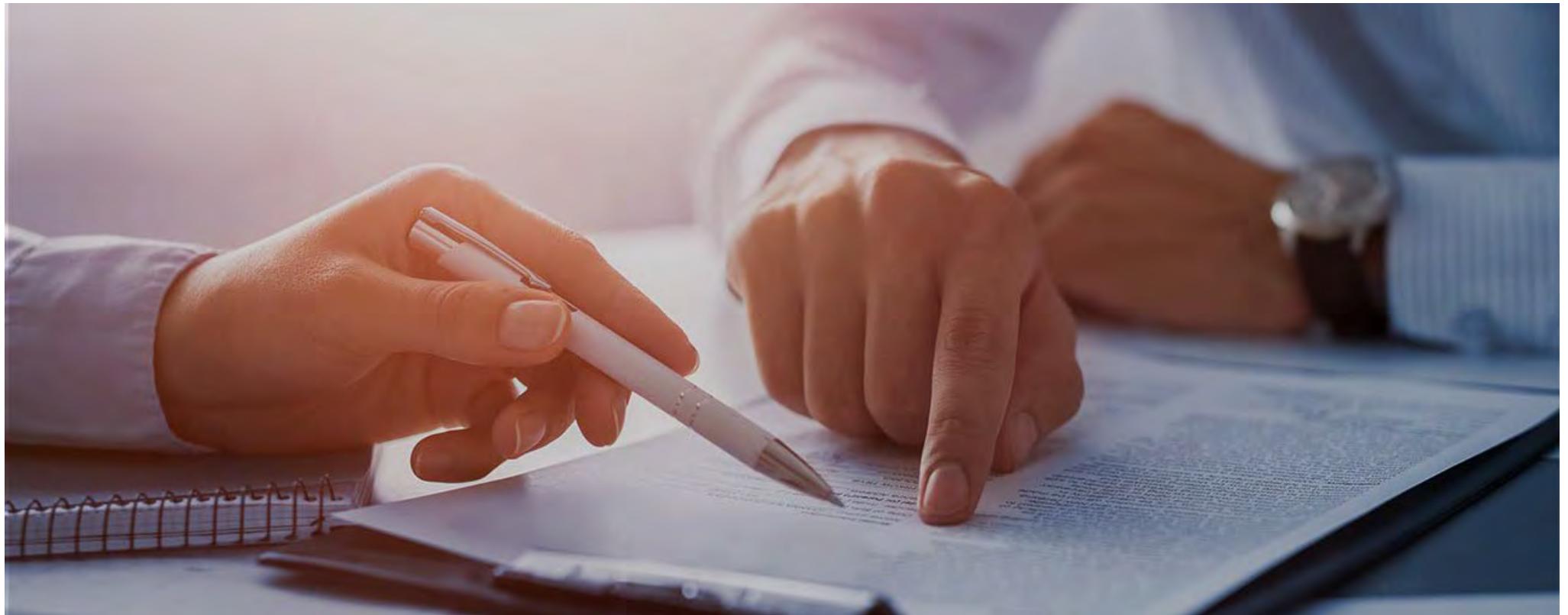
	<p>There are also limitations to a brokerage's authority, which a salesperson should understand so the authority granted is not over-stepped. A seller or a buyer, as a principal (client), owe the duty of indemnification, remuneration, and any other obligations agreed to in the representation agreement.</p> <p>Completion of this lesson has enabled you to:</p> <ul style="list-style-type: none"> • Describe the authority granted to a brokerage by a principal • Describe the limitations to the authority granted to a brokerage by a principal • Describe the principal's duties to the agent
Identify the duties and obligations of a salesperson to a client or customer	<p>A salesperson owes both clients and customers duty of care, which means they must treat all individuals with fairness, honesty, and integrity. They also must exercise care and skill for both clients and customers.</p> <p>A salesperson must understand that fairness, honesty, and integrity apply to all their actions when trading in real estate, and they must conduct themselves in a professional manner. It is important for a salesperson to understand their obligations to sellers and buyers, and be able to explain the differences in their obligations to clients and customers. Specifically, the limitations to services available to customers need to be understood.</p> <p>There are general obligations owed to both a client and a customer. However, the extent of these obligations owed to a customer are limited to exercising care and skill, and ensuring honesty. All remaining general obligations are owed to a client.</p> <p>Fiduciary obligations are owed only to a client and many of these are based on ensuring the client is the priority and focus in all activities undertaken by the brokerage. A fiduciary relationship is based on trust and confidence, best interests, and loyalty. A brokerage must always obey the instructions of a client, however this applies only to instructions that are legal.</p>

	<p>Regulatory obligations are those under the common law of agency and REBBA. Many of the regulatory obligations will apply equally to a client and a customer, however, some obligations will have significant differences.</p> <p>Completion of this lesson has enabled you to:</p> <ul style="list-style-type: none"> • Describe a salesperson's duty of care owed to a client and a customer • Describe the obligations owed to a client and a customer under agency law • Describe the fiduciary obligations owed to a client • Describe the obligations owed to a client and a customer under REBBA
<h3>Understand single representation and multiple representation</h3>	<p>As the agency relationship is established between the principal and the agent, the relationship established applies to all salespersons employed by the brokerage. For example, when a brokerage lists a seller's property for sale, the salesperson who is working directly with the seller is known as the listing salesperson. However, any obligation owed to the seller by this salesperson is also owed by all other salespersons employed by the brokerage. This is known as single representation. When a brokerage represents both the seller and a buyer, or two competing buyers offering on the same property, this is considered multiple representation, even though different salespersons within the brokerage are representing the seller and buyer.</p> <p>For a brokerage to operate under multiple representation, the brokerage must disclose the potential for this, and then obtain written consent to work under these conditions. If one or more of the clients do not consent to operating under multiple representation, the brokerage must release one or more clients to allow them to seek representation with another brokerage.</p> <p>Under multiple representation, the obligations owed, and the disclosures made, will be limited. These limitations centre around the non-disclosure of personal information or the motivation of the other party, retaining all confidential information. In addition, the brokerage may not provide any advice regarding the</p>

	<p>price to offer or the price to accept. The brokerage must treat both parties fairly and equally.</p> <p>Completion of this lesson has enabled you to:</p> <ul style="list-style-type: none"> • Describe obligations owed to a seller or buyer under single representation • Describe how multiple representation alters the obligations owed by a brokerage to a seller or buyer
Identify the service options available to a seller or buyer	<p>A seller and a buyer receive many benefits when working with a salesperson registered with RECO. The regulatory requirements for education helps a salesperson to expand and retain the knowledge required in the profession, while the Code provides a uniform standard of professional conduct for all registrants to uphold.</p> <p>A brokerage can offer different types of services to a seller and a buyer. These include representation as a client, or being provided services as a customer.</p> <p>A salesperson can offer a variety of services to sellers and buyers as clients and can tailor these services to meet the specific needs of each individual. Documenting these services will assist the seller or the buyer in understanding the obligations of the brokerage. There are many benefits to documenting these services as soon as possible in the relationship.</p> <p>In addition to guiding clients through the listing and selling process step-by-step, the greatest benefit of having a client relationship with a salesperson is the salesperson's utmost loyalty. Unlike a customer relationship, in a client relationship, a salesperson is obligated to act in the client's best interests at all times.</p> <p>Completion of this lesson has enabled you to:</p> <ul style="list-style-type: none"> • Identify the benefits of working with a salesperson registered with RECO • Identify the types of agreements used to document a brokerage's relationship with a seller, buyer, landlord, or tenant • Identify the obligations to provide information before an agreement

	<ul style="list-style-type: none"> Identify the importance of defining and documenting services as soon as possible in the relationship
Describe a salesperson's services to a seller	<p>A salesperson's services when representing a seller as a client will apply to all steps in the marketing and sale of the property. Examples of services include:</p> <ul style="list-style-type: none"> Marketing their property Explaining the terms and conditions of offers received Negotiating the agreement of purchase and sale for the benefit of the seller Guiding sellers through the due diligence period of an offer when a party will be completing conditions as a requirement for the agreement <p>The services available to seller customers are more limited. However, the salesperson is still required to act with a duty of care and treat the seller with fairness and honesty. In many instances, a brokerage has a customer relationship with a seller who is privately offering their property for sale and the brokerage is representing a buyer in the transaction.</p> <p>Understanding the distinction between services available to seller clients and seller customers is important for a salesperson to properly fulfill their duties.</p> <p>Completion of this lesson has enabled you to:</p> <ul style="list-style-type: none"> Outline the services a salesperson could provide when representing a seller Outline the services a salesperson could provide to a seller under a customer service agreement
Describe a salesperson's services to a buyer client	<p>A salesperson's services when representing a buyer will involve all aspects of identifying appropriate properties to view, showing properties, negotiating offers, ensuring any due diligence is completed, and assisting in the closing of the transaction. Examples of services include:</p> <ul style="list-style-type: none"> Qualifying buyers (and/or referring the buyers to a financing expert) to determine what price home they can afford Locating homes that meet the buyer's financial needs and preferences Making appointments and showing homes to the buyer

	<ul style="list-style-type: none"> • Drafting an agreement of purchase and sale with terms beneficial to the buyer including any conditions to protect the buyer, (for example, home inspection or financing for the benefit of the buyer) • Presenting the offer in person (if possible) and negotiating on behalf of the buyer • Guiding buyers through satisfying conditions, leading to the transfer of ownership upon completion date <p>The services available to buyer customers are more limited. However, the salesperson is still required to act with a duty of care and treat them with fairness and honesty.</p> <p>Understanding the distinction between services available to buyer clients and buyer customers is important for a salesperson to properly fulfill their duties.</p> <p>Completion of this lesson has enabled you to:</p> <ul style="list-style-type: none"> • Outline the services a salesperson could provide when representing a buyer • Outline the services a salesperson could provide to a buyer under a customer service agreement
Fulfill obligations of a salesperson regarding not interfering with agreements that exist between clients and other brokerages	<p>Salespersons must respect and refrain from interfering in the relationships sellers and buyers have established with other brokerages.</p> <p>This includes following ethical modes of communication when conveying information or responding to questions. A salesperson may not induce a seller or a buyer to break their representation agreements to enter into one with the brokerage. A salesperson may not encourage or recommend a seller or a buyer from breaking an agreement of purchase and sale already entered into.</p> <p>Completion of this lesson has enabled you to:</p> <ul style="list-style-type: none"> • Identify the requirements under REBBA regarding dealings with other registrants



Module Resources

There are nine helpful resources related to this module that you can search for in the Knowledge Management System.

1. **Creating an Agency Relationship:** This job aid depicts different ways agency relationships may be created. It includes a table of common actions a salesperson may take and their results. A salesperson can use this job aid during the initial stages of routine contact with a seller or a buyer and to assist in determining whether an agency relationship has been implied.
2. **Terminating an Agency Relationship:** This job aid lists the obligations a salesperson has to sellers and buyers after the termination of an agency relationship between them and the brokerage. It includes a common example that a salesperson might encounter. A salesperson can use this job aid as a refresher prior to terminating a relationship.

3. Duties Owed by the Seller or Buyer to the Brokerage: This job aid contains examples of each duty a seller or a buyer owes to the brokerage. It also contains Frequently Asked Questions (FAQs) that salespersons receive from sellers or buyers and examples of how to respond to them. A salesperson can use this job aid when fielding questions from a seller or a buyer about their obligations.
4. Duty of Care to Client: This job aid outlines the duty of care owed to clients. A salesperson can use this job aid when representing a client.
5. Avoiding Conflicts of Interest: This table lists common scenarios in which a conflict of interest may arise. A salesperson can refer to it to ensure they avoid conflicts of interest.
6. Navigating Multiple Representation: These flowcharts outline the required steps of disclosure before an offer is made. They also address common examples of multiple representation. A salesperson can use this job aid to help them avoid conflicts of interest during multiple representation.
7. Seller Client Services: This flowchart contains a list of some of the services available to a seller client throughout each stage of the listing process. A salesperson can use this job aid during the following stages of a seller client relationship to ensure the indicated tasks are completed.
8. Buyer Client Services: This flowchart contains a list of services available to a buyer client throughout each stage of the buying process. A salesperson can use this job aid during the following stages of a buyer client relationship to ensure the indicated tasks are completed.
9. Duty of Care to Customer: This job aid outlines the duty of care owed to customers. A salesperson can use this job aid at the start of their relationships.

While navigating through the online module, click the **KMS** button for tools and information on this topic.