**VERIFIABLE TRAINING TOPIC 3 FOR JARED**

**Topic 3 – Disclosure (2 hours)**

***VIDEO 3A***

*Text box question*

Please type your answer in the text box below.

Question:

1. What sections of the Rules, if any, did the licensee breach?

Answer should relate to the following:

Licensed salesperson: Breach of Rule 5.1 (skill, care, competence and diligence)

Breach of Rule 6.4 (not mislead a customer or client)

Breach of Rule 9.2 (not engage in conduct that puts a prospective client, client or customer under undue or unfair pressure

Agency: Breach of 8.3 (agent operating a business must ensure all salespersons engaged …are properly supervised)

Breach of Rule 9.1 (licensee must act in the best interests of a client)

***VIDEO 3B***

*Table question – course book only*

Please answer in your downloaded booklet:

Question:

1. Read the rules in the table below. Do the obligations they describe relate to client, customer or both?

|  |  |  |
| --- | --- | --- |
| Rule | Client | Customer |
| 5.1 A licensee must exercise skill, care, competence, and diligence at all times when carrying out real estate agency work. |  |  |
| 6.1 A licensee must comply with fiduciary obligations to the licensee’s client. |  |  |
| 6.2 A licensee must act in good faith and deal fairly with all parties engaged in a transaction. |  |  |
| 6.3 A licensee must not engage in any conduct likely to bring the industry into disrepute. |  |  |
| 6.4 A licensee must not mislead a customer or client, nor provide false information, nor withhold information that should by law or in fairness be provided to a customer or client. |  |  |
| 9.1 A licensee must act in the best interests of a client and act in accordance with the client’s instructions unless to do so would be contrary to law. |  |  |
| 9.16 A licensee must not use information that is confidential to a client for the benefit of any other person or of the licensee. |  |  |
| 9.18 Where a licensee discloses information under rule 9.17(b), (c) or (d), it may be only to the appropriate person or entity and only to the extent necessary for the permitted purpose. |  |  |

Answer:

|  |  |  |
| --- | --- | --- |
| Rule | Client | Customer |
| 5.1 A licensee must exercise skill, care, competence, and diligence at all times when carrying out real estate agency work. | X | X |
| 6.1 A licensee must comply with fiduciary obligations to the licensee’s client. | X |  |
| 6.2 A licensee must act in good faith and deal fairly with all parties engaged in a transaction. | X | X |
| 6.3 A licensee must not engage in any conduct likely to bring the industry into disrepute. | X | X |
| 6.4 A licensee must not mislead a customer or client, nor provide false information, nor withhold information that should by law or in fairness be provided to a customer or client. | X | X |
| 9.1 A licensee must act in the best interests of a client and act in accordance with the client’s instructions unless to do so would be contrary to law. | X |  |
| 9.16 A licensee must not use information that is confidential to a client for the benefit of any other person or of the licensee. | X |  |
| 9.18 Where a licensee discloses information under rule 9.17(b), (c) or (d), it may be only to the appropriate person or entity and only to the extent necessary for the permitted purpose. | X |  |

Please answer in your downloaded booklet:

Question:

1. The following pieces of legislation also relate to disclosure obligations of licensees to clients and customers, as included in the chart on page 13.  
   In cases where the client is a vendor or lessor and the customer is a purchaser or lessee, do the obligations they describe relate to client, customer or both?

Refer to Appendices 2 - 4 to help you answer the questions, as necessary.

|  |  |  |
| --- | --- | --- |
| Section | Client | Customer |
| Section 134 of the Real Estate Agents Act 2008 which deals with situations in which contracts for acquisition by licensee or related person may be cancelled. |  |  |
| Section 135 of the Real Estate Agents Act 2008 which deals with situations in which clients must be provided with a valuation. |  |  |
| Section 136 of the Real Estate Agents Act 2008 which deals with situations in which disclosure of other benefits that licensee stands to gain from transaction must be made. |  |  |
| Section 137 of the Real Estate Agents Act 2008 which defines the meaning of licensee and person related to licensee in sections 134 to 136. |  |  |
| Section 9 of the Fair Trading Act which prohibits misleading and deceptive conduct. |  |  |
| Section 12A of the Fair Trading Act which prohibits the use of unsubstantiated representations. |  |  |
| Section 14 of the Fair Trading Act which prohibits false representations and other misleading conduct in relation to land. |  |  |
| Section 36L of the Fair Trading Act refers to uninvited direct sales. The licensee is required to give the client oral notice before the agency agreement is entered into of the client’s right to cancel the agreement within 5 working days after the date on which the consumer receives a signed copy of the agreement; and how the consumer may cancel the agency agreement. The licensee must include specific information on the front page of the written agency agreement, including a summary of the client’s right to cancel the agency agreement within 5 working days. |  |  |

Answer:

|  |  |  |
| --- | --- | --- |
| Section | Client | Customer |
| Section 134 of the Real Estate Agents Act 2008 which deals with situations in which contracts for acquisition by licensee or related person may be cancelled. | X |  |
| Section 135 of the Real Estate Agents Act 2008 which deals with situations in which clients must be provided with a valuation. | X |  |
| Section 136 of the Real Estate Agents Act 2008 which deals with situations in which disclosure of other benefits that licensee stands to gain from transaction must be made. | X | X |
| Section 137 of the Real Estate Agents Act 2008 which defines the meaning of licensee and person related to licensee in sections 134 to 136. | X |  |
| Section 9 of the Fair Trading Act which prohibits misleading and deceptive conduct. |  | X |
| Section 12A of the Fair Trading Act which prohibits the use of unsubstantiated representations. |  | X |
| Section 14 of the Fair Trading Act which prohibits false representations and other misleading conduct in relation to land. |  | X |
| Section 36L of the Fair Trading Act refers to uninvited direct sales. The licensee is required to give the client oral notice before the agency agreement is entered into of the client’s right to cancel the agreement within 5 working days after the date on which the consumer receives a signed copy of the agreement; and how the consumer may cancel the agency agreement. The licensee must include specific information on the front page of the written agency agreement, including a summary of the client’s right to cancel the agency agreement within 5 working days. | X |  |

***VIDEO 3C***

*Text box question*

Please type your answer in the text box below.

Question:

1. What sections of the Rules, if any, did the licensee breach?

Answer should relate to the following:

Breach Rule 9.16 (not use information that is confidential to a client for benefit of other…)

Breach Rule 9.17 (not disclose confidential personal information relating to a client)

***VIDEO 3C***

*Text box question*

Please type your answer in the text box below.

Question:

1. What sections of the Rules, if any, did the licensee breach?

Answer should relate to the following:

Breach Rule 6.2 (licensee must act in good faith and deal fairly)

Breach Rule 6.4 (licensee must not mislead a customer or client, nor provide false information)

Breach Rule 10.7 (a licensee is not required to discover hidden or underlying defects in and but must…

***VIDEO 3D***

*True or false question*

Questions:

Read the following statements and decide whether they are ‘True’ or ‘False’.

1. Under section 134 of the Real Estate Agents Act, written consent is required from the client if the licensee or a related person wishes to acquire the land or business to which the transaction relates. However, the format is not prescribed.

False

1. Unless the client has given authorisation in Form 2, a licensee must not complete the transaction if a related person is likely to acquire the land or business.

True

1. If a transaction progresses under the terms of section 134 the licensee must provide the client with an independent valuation paid for by the licensee.

True

1. Under section 135, the client can cancel any contract relating to the property and does not have to pay commission if requirements are not complied with.

False

***VIDEO 3E***

*Text box question*

Please type your answer in the text box below.

Question:

1. What sections of the Act or Rules, if any, did the licensee breach?

Answer should relate to the following:

Breach section 134(3)(b) (consent only effective on if in the prescribed form…and accompanied with independent registered valuation)

Breach section 135 (not providing vendor with a valuation)

Breach Rule 5.1 (licensee must exercise skill, care, competence and diligence)

Breach Rule 5.2 (licensee must have sound knowledge of the Act, regulations and rules

***VIDEO 3F***

*Text box question*

Please type your answer in the text box below.

Question:

1. What sections of the Rules, if any, did the licensee breach?

Answer should relate to the following:

The Agency was found guilty of unsatisfactory conduct and the following:

Breach Rule 6.1 (licensee must comply with fiduciary obligations)

Breach Rule 6.2 (licensee must act in good faith and deal fairly…)

Breach Rule 9.1 (licensee must act best interests of client)

***VIDEO 3G***

*Text box question*

Please type your answer in the text box below.

Question:

1. What sections of the Rules, if any, did the licensee breach?

Answer should relate to the following:

Breach Rule 5.1 (skill, care and competence)

Breach Rule 6.4 (must not mislead a customer or client)

***VIDEO 3H***

*Text box question*

Please type your answer in the text box below.

Question:

1. What sections of the Rules, if any, did the licensee breach?

Answer should relate to the following:

Breach rule 5.1 (skill, care, competence)

Breach rule 6.2 (good faith)

Breach rule 6.4 (not mislead or withhold information)

Breach 10.7 (disclosure – defects)

***VIDEO 3I***

*Text box question*

Please type your answer in the text box below.

Question:

1. What sections of the Rules, if any, did the licensee breach?

Answer should relate to the following:

Breach Rule 5.1 (skill, care and competence)

Rule 6.2 (licensee must act in good faith and deal fairly)

Rule 6.4 (must not mislead a customer or client)

Rule 10.7 (not required to discover hidden or underlying defects in land)

***VIDEO 3J***

*Text box question*

Please type your answer in the text box below.

Question:

1. What sections of the Rules, if any, did the licensee breach?

Answer should relate to the following:

Rule 6.4 (must not mislead a customer or client)

Rule 10.7 (not required to discover hidden or underlying defects in land)

***VIDEO 3K***