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AUTHORIZED
RELATIONSHIPS, DUTIES,
AND DISCLOSURE

1 **LEARNING OBJECTIVES**

2 *When you have completed this unit, you will be able to accomplish the following.*

- 3 ■ Distinguish among agency relationships in general business dealings.
- 4 ■ Describe the three brokerage relationship options.
- 5 ■ Describe the duties owed in a no brokerage relationship (nonrepresentation).
- 6 ■ Describe the duties that single agents have to their principals.
- 7 ■ Describe the duties owed in a transaction broker relationship.
- 8 ■ Describe the process of transition from a single agent to a transaction broker.
- 9 ■ Describe the disclosure procedures and the required content and format of the disclosure notices.
- 10 ■ Describe the disclosure requirements for nonresidential transactions where the buyer and seller have assets of \$1 million or more.
- 11
- 12 ■ List the events that will cause a brokerage relationship to be terminated.

13 **KEY TERMS**

agent	dual agent	residential sale
caveat emptor	fiduciary	transactions
consent to transition	general agent	single agent
customer	limited representation	special agent
designated sales	no brokerage relationship	subagent
associates	principal	transaction broker

14 **INTRODUCTION**

15 This unit begins with a general explanation of the law of agency and then details the
 16 various types of brokerage relationships practiced in Florida. The unit also explains the
 17 licensee's duties and obligations to principals and customers.

4.1 LAW OF AGENCY

When a person delegates authority to someone to act on his behalf, an agency relationship has been created. Agency relationships fall within the body of law called *law of agency*.

There are three types of law that society looks to for guidance regarding agency relationships: common law, statutory law, and administrative law.

2.01, F.S.
775.01, F.S.

Common law (sometimes called unwritten law or case law) is judge-made law manifested in decrees and judgments of the courts as opposed to statutory law. It originated in England, where it was used in the kings' courts as one of the earliest legal systems and is still used today in the English legal system and the U.S. legal system. When statutory law is missing or ambiguous, it leaves room for a judicial written opinion known as common law to take precedence due to local practice or acceptance.

Statutory law is written statutes enacted by a legislature. Chapters 455 and 475 are two Florida statutes enacted by the Florida Legislature pertaining to license law (see "Statutes and Rules Important to Real Estate," Unit 2).

Administrative law is a body of law created by administrative agencies in the form of rules, regulations, orders, and decisions. Florida Statute 475 empowers the Florida Real Estate Commission to govern real estate practice in Florida.

In addition to the statutory laws of agency, real estate license law and the Florida Real Estate Commission (FREC) rules directly affect and regulate the brokerage relationships among real estate licensees, buyers and sellers, and the public.

Agency Relationships in General Business Dealings

A person who delegates authority to another is called the **principal**. A person who accepts the authority (and the responsibilities, duties, and obligations associated with that authority) is called the **agent**. An **agent** is the person entrusted with another's business. An agent is authorized to represent and act for the principal.

EXAMPLE: The broker is the *principal* in dealings with the sales associates and broker associates because the broker delegates to the associates the responsibility of representing the broker's interests. Sales associates and broker associates are *agents* of their broker or owner-developer (if registered with the DBPR under an owner-developer). The broker's associates (sales and broker associates) are authorized and consent to represent the broker in dealings with buyers and sellers, and landlords and tenants.



SALES ASSOCIATES AND BROKER ASSOCIATES ARE AGENTS OF THE BROKER

Broker (principal) → Sales associates and broker associates (agent of the broker in dealings with buyers and sellers)

Fiduciary Relationships. The agency relationship creates a *fiduciary relationship* with the principal. A **fiduciary** acts in a position of trust and confidence for another. The fiduciary owes complete allegiance to the principal. A fiduciary relationship contrasts with the common public relationship that exists in normal trading transactions where people with adverse interests deal *at arm's length* with one another. People dealing at arm's length

1 conduct negotiations on their own behalf without trusting the other's fairness or integ-
 2 rity and without being subject to the other's control or influence. In such cases, the legal
 3 doctrine of **caveat emptor** (a Latin term meaning "let the buyer beware") applies. Agency
 4 relationships exist in many business transactions such as between an attorney (agent) and
 5 client (principal). An agency relationship may exist in certain real estate transactions
 6 (this will be explained in detail in the following section).

7 Two types of agents are characterized by the extent of authority delegated to an agent
 8 in general business dealings: (1) general agent, and (2) special agent.

9 A **general agent** is authorized by the principal to perform acts associated with the con-
 10 tinued operations of a particular job or a certain business of the principal. A general agent
 11 may represent the principal in a broad range of matters related to a particular business.

12 **EXAMPLE 1:** A property manager is a *general agent* if authorized by the principal
 13 to show and rent apartments, collect rents, supervise maintenance of the property, handle
 14 tenant relations, and perform bookkeeping duties. A property manager is a general agent
 15 because the manager is authorized to perform on a continued basis a broad range of ser-
 16 vices associated with management of rental property on behalf of the principal.

17 **EXAMPLE 2:** Sales associates and broker associates are *general agents* of the
 18 broker with whom they are registered. Associates solicit listings and buyers, negoti-
 19 ate contracts, attend closings, and perform other real estate services on behalf of their
 20 broker. Therefore, in general business dealings, sales associates and broker associates
 21 are general agents of the employing broker.

22 A **special agent** is authorized by the principal (broker or owner-developer) to handle
 23 a specific business transaction or to perform a specific act.

24 **EXAMPLE:** A broker enters into an agreement with a seller to represent the seller
 25 in negotiations to find a buyer for the seller's property. The broker is a *special agent* of
 26 the seller. The broker represents the seller to sell a specific property (a single business
 27 transaction) and the broker has been given authority to accomplish only this task.

Practice Questions

1. A person who delegates authority to another is called the _____.
2. An _____ is the person entrusted with another's business.
3. People who deal _____ conduct negotiations on their own behalf without trusting the other's fairness or integrity.
4. Common law is sometimes called _____.
5. Laws created by the Florida Legislature are called _____.
6. A sales associate is a _____ agent of the employing broker.

4.2 BROKERAGE RELATIONSHIPS IN FLORIDA

28
 29 Historically, there has been confusion among buyers and sellers regarding what role
 30 real estate licensees have in real estate negotiations. Sellers assumed that real estate licens-
 31 ees represented their interests because sellers traditionally paid the commission. However,
 32 the payment of commission or the promise of compensation alone is not what deter-
 33 mines whether a brokerage relationship exists. A brokerage relationship can be accidentally

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475.255,
F.S.475.01,
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475.278,
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1 (inadvertently) created by a licensee's actions and words. For example, referring to a pro-
 2 spective purchaser as "my buyer" or "my client" may imply that the licensee is representing
 3 the buyer when in actuality the brokerage is representing the seller. Because of this confu-
 4 sion, the Florida legislature passed the *Brokerage Relationship Disclosure Act*. The Brokerage
 5 Relationship Disclosure Act is intended to inform and educate the public regarding the
 6 types of authority (brokerage relationships) that can be granted to a broker and the duties
 7 brokers have in each type of brokerage relationship.

8 **Brokerage Relationship Options**

9 In a residential transaction, there are three brokerage relationship options that a real
 10 estate broker will assume for buyers and sellers:

- 11 1. No brokerage relationship
- 12 2. Single agent
- 13 3. Transaction broker

14 The appropriate type of brokerage relationship is determined by the broker. Associates
 15 should consult with their employing broker regarding what type of brokerage relationships
 16 the brokerage practices. Florida law mandates certain duties and obligations for each type
 17 of brokerage relationship. We begin our overview of the types of relationships authorized
 18 by Florida Statutes with the relationship that has the fewest duties and obligations.

Practice Questions

7. List the three brokerage relationship options in Florida.

1. _____
2. _____
3. _____

19 **4.3 NO BROKERAGE RELATIONSHIP (NONREPRESENTATION)**

20 Florida law allows prospective buyers and sellers to opt out of representation. A broker
 21 working in a no brokerage relationship is not an agent of either party in a transaction.
 22 A broker working in a no brokerage relationship capacity with a seller can enter into a
 23 listing agreement with the seller and be paid compensation. Similarly, a brokerage firm
 24 working in a no brokerage relationship capacity can work with a buyer. The broker may
 25 only relay information to the parties and may not negotiate on behalf of either party. The
 26 parties in a no brokerage relationship are referred to as customers. Chapter 475 defines
 27 **customer** as a member of the public who is or may be a buyer or a seller of real property
 28 and may or may not be represented by a real estate licensee in an authorized brokerage
 29 relationship. Therefore, the seller (or the buyer) who chooses nonrepresentation is a cus-
 30 tomer under the no brokerage relationship.

31 A broker (and the broker's associates) working in a no brokerage relationship with the
 32 parties to a transaction, owe three duties to customers:

- 33 1. *Account for all funds.* Brokers must account for all funds entrusted to them in a
 34 real estate transaction. (Unit 5 explains in detail the procedures associated with
 35 holding trust funds.)

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- 1 2. *Deal honestly and fairly.* Real estate licensees owe a duty of good faith and honesty to customers. A broker's customers are entitled to rely on material statements related to a real estate transaction.
- 2
- 3
- 4 3. *Disclose all known facts that materially affect the value of residential real property and are not readily observable to the buyer.* Real estate licensees have a duty to disclose to buyers all known facts (such as defects) that materially affect the value of residential property. *Material defects* have to do with the property, the structure, and issues not readily observable to a buyer (such as mold that was not remediated but covered with drywall, a pending change in zoning, and so forth). It does not concern information about previous occupants. For example, if it is known to a licensee that there is a rotting wood floor under the wall-to-wall carpeting, the licensee is obligated to inform the buyer of the condition of the wood floor.
- 5
- 6
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13 The three duties listed previously are fundamental to honest, fair business dealings—
 14 so much so that real estate licensees are bound to these three duties in all three types of
 15 brokerage relationships (see Figure 4.1).

FIGURE 4.1 ■ Brokerage Relationship Duties

Duty	No Brokerage	Transaction Broker	Single Agent
Account for all funds	✓	✓	✓
Deal honestly and fairly	✓	✓	✓
Disclose all known facts that affect value of residential property	✓	✓	✓
Use skill, care, and diligence		✓	✓
Present all offers and counteroffers		✓	✓
Exercise limited confidentiality		✓	
Perform additional duties that are mutually agreed to		✓	
Confidentiality			✓
Obedience			✓
Loyalty			✓
Disclosure (full)			✓

TO REMEMBER: THREE DUTIES REQUIRED IN ALL BROKERAGE RELATIONSHIPS

A	Account for all funds
D	Deal honestly and fairly
D	Disclose all known facts that affect value of residential property

16 The degree of guidance and representation the buyer desires and the broker provides
 17 determines which of the next two brokerage relationships is used.

Practice Questions

8. List the three duties in a no brokerage relationship.
1. _____
 2. _____
 3. _____
9. The buyer or the seller who chooses a no brokerage relationship with the broker is called the _____.

4.4 SINGLE AGENT RELATIONSHIP

475.278(3),
F.S.
475.01, F.S.

Florida license law defines a **single agent** as a broker who represents, as a fiduciary, either the buyer or the seller, but *not both*, in the same transaction. Recall that the broker does not represent either party in a no brokerage relationship. What makes a single agent relationship unique is that only one party in a transaction may be represented by the brokerage in a fiduciary capacity. A fiduciary relationship is a relationship of trust and confidence between the broker as agent and the person who delegated the authority to the broker (the principal). A fiduciary relationship between a broker and a buyer or a seller exists only when a single agent relationship is chosen. The terms *principal* and *client* should only be used when referring to a single agent relationship.



FIDUCIARY AND NONFIDUCIARY RELATIONSHIPS

Type of Authorized Relationship	Fiduciary Relationship	Works With
Transaction Broker	No	Customer
No brokerage relationship	No	Customer
Single Agent	Yes	Principal/Client

475.01, F.S.
475.272,
F.S.

Dual Agency. A brokerage firm may represent as a single agent either the buyer or the seller in a real estate transaction, but never both. A **dual agent** relationship occurs when a brokerage firm represents as a fiduciary (single agent) both the buyer and the seller in the same real estate transaction. It is illegal in Florida for real estate licensees to operate as dual agents. Because the relationship is established with the brokerage firm, it is still dual agency if two different licensees in the same brokerage entity represent the seller as a single agent and the buyer as a single agent.

Subagents. Because a broker can only represent either the buyer or the seller in a real estate transaction as a fiduciary, there is one of two scenarios possible:

1. The seller lists property with the broker and the broker is an agent (represents in a fiduciary capacity) of the seller. The broker's sales associates and broker associates are **subagents** of their broker in dealings with the seller who is the principal in a single agency relationship.
2. The broker enters into a single agency relationship with the buyer who has a buyer representation agreement with the broker. The broker is an agent (represents in a fiduciary capacity) of the buyer. The broker's sales associates and broker associates are subagents of their broker in dealings with the buyer who is the principal.

1 When a broker enters into a single agent relationship with either a seller or a buyer
 2 in a real estate transaction, the broker is an agent of the principal (buyer or seller, but not
 3 both). The sales associates and broker associates who work with the principal on behalf
 4 of their broker are subagents of the broker's principals. Subagents (the broker's associates)
 5 have the same duties as the agent (broker). Therefore, sales associates and broker associ-
 6 ates owe the same fiduciary obligations to the broker's principals as does their broker. This
 7 is true regardless of whether the associates, for tax purposes, are employees or independent
 8 contractors of the broker.



SUBAGENTS IN SINGLE AGENT RELATIONSHIPS

Seller as principal:

Seller is the principal → Broker is the agent of the seller → Sales associates and broker associates are the subagents of the seller/principal

Buyer as principal:

Buyer is the principal → Broker is the agent of the buyer → Sales associates and broker associates are the subagents of the buyer/principal

9 **Single Agent Duties.** A single agent is bound to the three duties required in all brokerage
 10 relationships (duties 1–3 in the following list). There are two duties owed by both single
 11 agent brokers and transaction brokers (duties 4–5). The transaction broker relationship
 12 is discussed in the next section of this unit. Four duties are required of single agents only
 13 (duties 6–9). These four unique duties owed only in a single agent relationship define the
 14 duties of a fiduciary (see text box and Figure 4.1).

- 15 1. *Account for all funds.*
- 16 2. *Deal honestly and fairly.*
- 17 3. *Disclose all known facts that materially affect the value of residential real property and*
 18 *are not readily observable to the buyer.*
- 19 4. *Use skill, care, and diligence.* Licensees must keep informed of developments that
 20 may affect the value of the property.
- 21 5. *Present all offers and counteroffers.* Unless a party has previously directed the
 22 licensee otherwise in writing, the licensee must present all oral and written offers
 23 and counteroffers in a timely manner even if a valid contract exists.
- 24 6. *Confidentiality.* Much of the information a broker gains while employed by the
 25 principal is confidential. An agent may not reveal to a third party, without the
 26 principal's permission, personal or private information that might lessen the
 27 principal's bargaining position. For example, a licensee may not tell a buyer that
 28 a seller is forced to sell owing to poor health or loss of a job without the prin-
 29 cipal's permission. A broker may not divulge confidential information learned
 30 during the course of the single agency even after the transaction is concluded
 31 and the agent-principal relationship is ended. A broker is never free to use con-
 32 fidential information to the disadvantage of or reveal any harmful or unfavorable
 33 information about a former principal.
- 34 7. *Obedience.* An agent is obligated to act in good faith according to the principal's
 35 lawful instructions. The broker-agent is at all times obligated to act in confor-
 36 mity with the principal's instructions, as long as those instructions are legal
 37 and relevant to the contractual relationship. If a broker feels that carrying out

1 the principal's legal directions will harm the principal, then the broker must
2 promptly inform the principal of all known facts, along with the broker's opin-
3 ion. However, if the principal will not change the instructions, the broker must
4 either carry them out or withdraw from the relationship.

5 Brokers may not violate the law. For example, if a principal instructs a listing
6 broker not to show the property or sell to a member of a particular minority or
7 ethnic group, the broker may not obey the principal's instructions because doing
8 so would violate the law. In such an instance, the broker must inform the prin-
9 cipal that to restrict certain groups of people from seeing or purchasing a listed
10 property is a violation of the fair housing laws.

11 8. *Loyalty*. The agent as fiduciary in a real estate transaction must avoid any situ-
12 ation that might breach the duty of undivided loyalty to the principal. The
13 overriding rule is that brokers may not adopt an attitude that is adverse to the
14 interests of their principals or act for themselves or some other person whose
15 interests are contrary to those of the principal. Loyalty (faithfulness) requires
16 brokers to always place the principal's interests above those of other persons
17 with whom the brokers deal. Courts have ruled (case law) that for brokers to be
18 loyal to their principals, they cannot exercise duties in such a manner as to profit
19 themselves or anyone else at the expense of the principal. The duty of loyalty
20 includes, for example:

- 21 ■ obtaining the most favorable price and terms for the principal,
- 22 ■ acting on behalf of the principal,
- 23 ■ not acting for parties with adverse interest in the same transaction,
- 24 ■ never concealing the identity of the purchaser to induce the principal to sell,
- 25 ■ disclosing to the principal if the agent becomes personally interested in the
26 principal's property, and
- 27 ■ never advancing the agent's or another person's interest at the expense of the
28 principal.

29 9. *Full disclosure*. It is a broker-agent's duty to keep the principal fully informed at
30 all times of all the facts or information that might affect the transaction or the
31 value of the property. An agent is obligated to disclose facts regarding a prop-
32 erty's true worth. Agents may be held responsible for material facts they should
33 have known and communicated to their principal but did not. Also, broker-
34 agents must inform their seller principals, for example, of the buyer's financial
35 condition, the status of the earnest money deposit, or if a personal relationship
36 exists between the agent and the buyer. All material facts must be revealed to
37 the principal even if the disclosure of such facts might cause the transaction to
38 fail.

39 Full, fair, and prompt disclosure also includes notifying the principal if the
40 broker is personally interested in buying the listed property. In such an event,
41 the broker must clearly terminate the agent-principal relationship and inform
42 the principal of all facts regarding the property that the broker has learned while
43 in an agent's capacity. Otherwise, the broker could buy from the principal and
44 subsequently sell at a higher price and keep the profit ("overage," "secret profit,"
45 or "secret commission"). To do so could be construed as fraud, misrepresentation,
46 concealment, and/or dishonest dealing and could expose the broker to liability to
47 both seller and buyer for the full amount of the secret profit. It might further give
48 rise to disciplinary proceedings against the licensee.

- 1 The nine duties just listed apply to *all* real estate transactions (residential and otherwise)
2 when the parties have agreed to a single agent relationship.

TO REMEMBER: FOUR UNIQUE DUTIES OF A SINGLE AGENT

A single agent owes nine duties to the principal. Four of the duties apply only to single agent relationships.

C	Confidentiality
O	Obedience
L	Loyalty
D	Disclosure (full)

Practice Questions

10. The duty of _____ prevents an agent from revealing to a third party, without the principal's permission, personal or private information that might lessen the principal's bargaining position.
11. The duty of _____ obligates an agent to act in good faith according to the principal's lawful instructions.
12. The duty of _____ requires the broker to place the principal's interests above those of other persons with whom the broker deals.
13. _____ is a broker-agent's duty to keep the principal fully informed at all times of all the facts or information that might affect the transaction or the property value.

4.5 TRANSACTION BROKER RELATIONSHIP

475.278(2),
F.S.

4 Recall that in a no brokerage relationship, the broker (and the broker's sales associ-
5 ates) simply facilitated the transaction process without representing or negotiating on
6 behalf of the parties. In the single agent relationship, the broker is the agent of the princi-
7 pal and the broker's associates are subagents of the principal. The broker and the broker's
8 associates are bound to a fiduciary relationship with the principal. The single agent broker
9 (and subagent associates) represents only one party in a transaction because to represent
10 both the buyer and the seller as a fiduciary in a transaction would be a conflict of interest
11 and create dual agency, which is prohibited under Chapter 475. Therefore, for both the
12 buyer and the seller to be represented in the same transaction within the same brokerage,
13 a different type of brokerage relationship was created. To avoid the issue of an illegal dual
14 agency, this third type of brokerage relationship was developed to give both buyers and
15 sellers limited representation (rather than full fiduciary representation). This brokerage
16 relationship has proved to be so useful that Florida law has deemed the transaction broker
17 relationship to be the presumed relationship in dealings with buyers and sellers.

18 Under Florida law, it is presumed that all licensees are operating as transaction bro-
19 kers unless one of the other two brokerage relationships is established, in writing, with
20 the customer. A **transaction broker** is a broker who provides **limited representation** to a

1 buyer, a seller, or to both parties in a real estate transaction. Transaction brokers do not
 2 represent either party in a fiduciary capacity. Recall that a fiduciary owes complete alle-
 3 giance (undivided loyalty) to the principal. It is not possible to give undivided loyalty to
 4 both the buyer and the seller.

5 In a transaction broker relationship, the parties to a real estate transaction are giving
 6 up their rights to the undivided loyalty of a licensee. *Limited representation* allows a broker
 7 (and the broker's associates) to facilitate a real estate transaction by assisting a buyer and
 8 a seller who are both parties to the same transaction within that brokerage. In this case,
 9 a broker will not work to represent one party to the detriment of the other party. Because
 10 associates represent buyers and sellers in the same brokerage relationship as that of their
 11 broker, it doesn't matter if one associate is working with both the buyer and the seller or
 12 one associate is working with the buyer and another associate is working with the seller.
 13 All licensees are providing limited representation to both parties. Because a transaction
 14 broker does not represent the seller (or the buyer, or both parties) in a fiduciary capacity,
 15 Florida law refers to the parties as customers.

16 In a transaction broker relationship, the broker and the broker's associates are bound
 17 to the three duties required in all brokerage relationships (duties 1–3) and two duties also
 18 required of single agent brokers (duties 4–5). The sixth and seventh duties enable the
 19 broker to provide a **nonfiduciary limited representation** (see Figure 4.1).

- 20 1. *Account for all funds.*
 21 2. *Deal honestly and fairly.*
 22 3. *Disclose all known facts that materially affect the value of residential property and are*
 23 *not readily observable to the buyer.*
 24 4. *Use skill, care, and diligence in the transaction.*
 25 5. *Present all offers and counteroffers in a timely manner.*
 26 6. *Exercise limited confidentiality, unless waived in writing by a party.*
 27 7. *Perform any additional duties that are mutually agreed to with a party.* However,
 28 a real estate licensee must be careful not to accept duties beyond the scope of
 29 limited representation.

30 **Distinct Features of a Transaction Broker Relationship**

31 A transaction broker must exercise limited confidentiality. This limited confidential-
 32 ity prevents disclosure of the following information:

- 33 ■ That the seller will accept a price less than the asking or listed price
 34 ■ That the buyer will pay a price greater than the price submitted in a written offer
 35 ■ The motivation of the parties for selling (if the seller) and/or buying (if the
 36 buyer) of the property
 37 ■ That a seller or a buyer will agree to financing terms other than those previously
 38 disclosed in writing (for example, in the original listing or during the contract
 39 negotiations)
 40 ■ Any other information requested by a party to remain confidential

41 Another distinct feature is the customer in a transaction broker relationship is not
 42 responsible for the acts of a licensee, as a principal might be in a single agent relationship.



KEY POINTS OF A TRANSACTION BROKER RELATIONSHIP

- Transaction broker relationship is presumed in all residential and nonresidential transactions
- Limited representation to a buyer, a seller, or both the buyer and the seller (in the same transaction within the same brokerage)
- No fiduciary relationship with the buyer or the seller
- Parties are represented as customers

Practice Questions

14. In Florida, there is a presumption that the brokerage is working in a _____ relationship.
15. A transaction broker is a broker who provides _____ representation to a buyer, a seller, or both the buyer and the seller in the same real estate transaction.
16. In a transaction broker relationship, the brokerage does not represent the buyer or the seller in a _____ capacity.

4.6 TRANSITION FROM SINGLE AGENT TO TRANSACTION BROKER

When a broker enters into a single agent relationship with a buyer or a seller, the broker and the broker's associates are bound to a fiduciary relationship with the principal. A broker who has a single agent relationship with a seller cannot also be a single agent for a buyer interested in the seller's property.

EXAMPLE: Assume that a broker represents seller Rebecca as a single agent. The same broker has a single agent relationship with buyer Mike. Because Mike has a single agent relationship with the broker, the broker's sales associates and broker associates may not show Rebecca's home to Mike. A broker may not be a single agent of the buyer and a single agent of the seller in the same transaction. This is true even if seller Rebecca and buyer Mike use different sales associates within the same brokerage. If a real estate broker represents both parties in a transaction in a fiduciary capacity, an illegal dual agency is created. To manage such situations, the buyer and seller would have to consent in writing to allow the broker to transition (change) to transaction broker relationships before the broker can show Rebecca's home to Mike.

A single agent relationship may be changed to a transaction broker relationship at any time during the relationship between the agent and principal, provided the agent first obtains the principal's written consent to the change in relationship. To gain the principal's written consent to a change in relationship, the buyer or the seller (or both) must sign the **consent to transition** to transaction broker notice set forth in Chapter 475. Note that this disclosure notice requires the buyer's or the seller's signature before the licensee may change from one brokerage relationship to another. If the principal refuses to sign the consent to transition notice, the broker must continue to act as a single agent.

1 **Brokerage Relationship Limitations**

- 2 ■ If the brokerage firm has a transaction broker relationship with the seller, the
 3 brokerage firm can also work with the buyer, in the same transaction, as a trans-
 4 action broker or in a no brokerage relationship capacity. The brokerage firm
 5 *cannot* represent the buyer as a single agent if the firm has a transaction broker
 6 relationship with the seller.
- 7 ■ If the brokerage firm is representing the seller as a single agent, the brokerage
 8 firm can work with the buyer, in the same transaction, in a no brokerage rela-
 9 tionship capacity. The brokerage firm *cannot* represent the buyer as a single agent
 10 or work with the buyer as a transaction broker if the firm is also representing the
 11 seller as a single agent.

12 The brokerage relationship limitations described previously apply even if the buyer
 13 and the seller are working with different sales associates in the same brokerage firm (see
 14 Figure 4.2).

FIGURE 4.2 ■ Authorized Relationships in One Brokerage Firm in the Same Transaction

Relationship with the Seller	Authorized Relationship with the Buyer
<i>If a Transaction Broker for the seller</i>	→ Transaction Broker <i>or</i> No Brokerage Relationship <i>with the buyer</i>
<i>If a Single Agent for the seller</i>	→ No Brokerage Relationship <i>with the buyer</i>

Practice Questions

17. A single agent relationship may be changed to a transaction broker relationship, provided the agent first obtains the principal’s signature on the _____ to _____ notice.
18. Michael was transferred to Seattle, so he wanted to sell his Florida residence. Harbor Realty entered into a single agent relationship with Michael. Harbor Realty later transitioned to a transaction broker relationship with Michael. Sales associate Merissa was working with Michael on behalf of Harbor Realty. Michael told Merissa that the air-conditioning compressor would run for about an hour and then overheat and stop running. Merissa knew that Michael was anxious to sell, so she did not mention the air-conditioning compressor to the buyer.
- Does the fact that Michael had a transaction broker relationship with Harbor Realty excuse nondisclosure of the air-conditioning compressor’s condition?

 - Can the sales associate be disciplined for failing to inform the buyer that the compressor would overheat?

 - Can Merissa’s broker be held accountable for not disclosing the air conditioning compressor’s condition to the buyer?

4.7 DISCLOSURE REQUIREMENTS

Brokerage Relationship Disclosure Act

475.278(5)(a),
F.S.

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Residential Transactions. The Brokerage Relationship Disclosure Act (BRDA) mandates that the duties and obligations that have been detailed in this unit apply to *all* real estate transactions (residential and nonresidential). However, written disclosures are required *only* for residential sale transactions when the brokerage firm acts in the capacity of a single agent or in a no brokerage relationship. Written disclosures are not required when the brokerage firm acts in the capacity of transaction broker because this relationship is presumed under Florida law. **Residential sale transactions** are defined as:

- improved property of four or fewer residential units;
- unimproved property zoned for four or fewer residential units; and
- agricultural property of 10 or fewer acres.

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Residential transactions include single-family homes, single condominium units, duplexes (two-unit residential structure), triplexes (three-unit residential), and quadplexes (four-unit residential). A large apartment complex is not considered to be residential real estate under the BRDA. Residential transactions include vacant land that is zoned for four or fewer residential units. A 5-acre property zoned agricultural falls within the definition of a residential transaction under the BRDA; however, a 50-acre farm, even if an individual lives on the property, is not considered to be a residential transaction for disclosure purposes under the BRDA.

36

Brokerage relationship disclosure requirements do not apply to transactions involving nonresidential real estate, business opportunities, and lease agreements (see the following text box). Furthermore, brokerage relationship disclosure documents are not required for the auction or appraisal of real estate.



TYPES OF TRANSACTIONS THAT DO NOT REQUIRE BROKERAGE RELATIONSHIP DISCLOSURES

- Nonresidential transactions
- Rent or lease agreements (except when there is an option to purchase residential property)
- Business opportunities (except for property with four or fewer residential units)
- Auctions
- Appraisals

475.278,
F.S.

1 **Disclosure Format.** The duties of the single agent relationship and nonrepresentation
2 must be fully described and disclosed in writing to a buyer or a seller, either as a separate
3 and distinct disclosure document or included as part of another document, such as a listing
4 agreement or buyer broker agreement. If the disclosure document is incorporated into a
5 listing or buyer broker agreement, a signature line must be inserted immediately following
6 the disclosure information. It is not sufficient to only have a signature line at the bottom
7 of the listing or buyer broker agreement.

8 When incorporated into other documents, the required disclosure notice must be of
9 the same size as, or larger type than, other provisions of the document and must be con-
10 spicuous in its placement to advise customers (or principals in a single agent relationship)
11 of the brokerage duties. The first sentence must be printed in uppercase and bold type.
12 The list of duties must be presented on the disclosure in the same order as listed in the
13 statute. The disclosure notice may include information concerning the real estate broker-
14 age, such as the company name and logo, address, phone number, email address, et cetera.

15 **Nonrepresentation.** The no brokerage relationship notice must be disclosed in writing
16 before the showing of property (see Figure 4.3).

17 **Single Agent.** The single agent disclosure must be made before, or at the time of, enter-
18 ing into a listing agreement or an agreement for representation, or before the showing of
19 property, whichever occurs first (see Figure 4.4).

20 **Transaction Broker.** Recall that under Florida law, it is presumed that all licensees are
21 operating as transaction brokers unless another brokerage relationship is established.
22 Therefore, there is no requirement to give a written transaction broker disclosure to the
23 buyer and/or the seller. However, licensees must fulfill the duties of a transaction broker
24 when that form of representation is selected.

25 **Consent to Transition to Transaction Broker.** The consent to transition to transaction
26 broker notice includes wording regarding the principal's permission to allow the single
27 agent to transition to a transaction broker. The notice also includes a list of the duties that
28 a transaction broker owes to the customer. The consent to transition to transaction broker
29 notice can either be a separate document or be included as part of another document—for
30 example, in the listing agreement. See "Disclosure Format" earlier in this unit for informa-
31 tion concerning the required format of the disclosure notice (see Figure 4.5).

475.5015,
F.S.

32 **Recordkeeping and Retention of Disclosure Documents.** Brokers must retain brokerage
33 relationship disclosure documents for five years for all residential transactions that result
34 in a written contract to purchase and sell real property. Documents may be stored in a
35 digital format as long as they are readily accessible by the broker. Files of properties that
36 have failed to close must also be retained. If a transaction fails to close, the broker should
37 retain the brokerage relationship disclosure documents with the purchase and sale con-
38 tract and other documents associated with the property and place them in the "dead"
39 (failed to close) file. The Commission may discipline a licensee for failure to abide by any
40 provision in Section 475.278, F.S., including the duties owed to customers and principals,
41 disclosure requirements, and recordkeeping requirements set forth in the law.

FIGURE 4.3 ■ No Brokerage Relationship Disclosure Form**NO BROKERAGE RELATIONSHIP NOTICE**

FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES WHO HAVE NO BROKERAGE RELATIONSHIP WITH A POTENTIAL SELLER OR BUYER DISCLOSE THEIR DUTIES TO SELLERS AND BUYERS.

As a real estate licensee who has no brokerage relationship with you, (insert name of Real Estate Entity and its Associates) owe to you the following duties:

1. Dealing honestly and fairly;
2. Disclosing all known facts that materially affect the value of residential real property which are not readily observable to the buyer; and
3. Accounting for all funds entrusted to the licensee.

Seller or (buyer) _____

Signature _____

_____ Date

Signature _____

_____ Date

FIGURE 4.4 ■ Single Agent Disclosure Form**SINGLE AGENT NOTICE**

FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES OPERATING AS SINGLE AGENTS DISCLOSE TO BUYERS AND SELLERS THEIR DUTIES.

As a single agent, (insert name of Real Estate Entity and its Associates) owe to you the following duties:

1. Dealing honestly and fairly;
2. Loyalty;
3. Confidentiality;
4. Obedience;
5. Full disclosure;
6. Accounting for all funds;
7. Skill, care, and diligence in the transaction;
8. Presenting all offers and counteroffers in a timely manner, unless a party has previously directed the licensee otherwise in writing; and
9. Disclosing all known facts that materially affect the value of residential real property and are not readily observable.

Seller or (buyer) _____

Signature _____

_____ Date

Signature _____

_____ Date

FIGURE 4.5 ■ Consent to Transition to Transaction Broker

FLORIDA LAW ALLOWS REAL ESTATE LICENSEES WHO REPRESENT A BUYER OR SELLER AS A SINGLE AGENT TO CHANGE FROM A SINGLE AGENT RELATIONSHIP TO A TRANSACTION BROKERAGE RELATIONSHIP IN ORDER FOR THE LICENSEE TO ASSIST BOTH PARTIES IN A REAL ESTATE TRANSACTION BY PROVIDING A LIMITED FORM OF REPRESENTATION TO BOTH THE BUYER AND THE SELLER. THIS CHANGE IN RELATIONSHIP CANNOT OCCUR WITHOUT YOUR PRIOR WRITTEN CONSENT.

As a transaction broker, _____ (insert name of Real Estate Firm and its Associates) provides to you a limited form of representation that includes the following duties:

1. Dealing honestly and fairly;
2. Accounting for all funds;
3. Using skill, care, and diligence in the transaction;
4. Disclosing all known facts that materially affect the value of residential real property and are not readily observable to the buyer;
5. Presenting all offers and counteroffers in a timely manner, unless a party has previously directed the licensee otherwise in writing;
6. Limited confidentiality, unless waived by a party. This limited confidentiality will prevent disclosure that the seller will accept a price less than the asking or listed price, that the buyer will pay a price greater than the price submitted in a written offer, of the motivation of any party for selling or buying property, that a seller or buyer will agree to financing terms other than those offered, or of any other information requested by a party to remain confidential; and
7. Any additional duties that are entered into by this or by separate written agreement.

Limited representation means that a buyer or seller is not responsible for the acts of the licensee. Additionally, parties are giving up their rights to the undivided loyalty of the licensee. This aspect of limited representation allows a licensee to facilitate a real estate transaction by assisting both the buyer and the seller, but a licensee will not work to represent one party to the detriment of the other party when acting as a transaction broker to both parties.

_____ I agree that my agent may assume the role and duties of a transaction broker. [must be signed]

1 Exceptions to Disclosure Requirements

475.278(5)
(b), F.S.

2 Certain interactions a licensee has with buyers and sellers do not constitute a bro-
3 kerage relationship. These situations are described in the real estate license law. When
4 a licensee has an encounter with a buyer or a seller under these specific situations, the
5 licensee is not required to give a prospective buyer or a prospective seller a disclosure
6 notice. The six situations that do not create a brokerage relationship are as follows:

- 7 1. When the licensee knows that a single agent or a transaction broker represents a
8 prospective seller or a prospective buyer
- 9 2. At a bona fide "open house" or model home showing that does not involve elic-
10 iting confidential information; the execution of a contractual offer or an agree-
11 ment for representation; or negotiations concerning price, terms, or conditions
12 of potential sale
- 13 3. During unanticipated casual encounters between a licensee and a prospective
14 seller or a prospective buyer that do not involve eliciting confidential informa-
15 tion; the execution of a contractual offer or an agreement for representation; or
16 negotiations concerning price, terms, or conditions of a potential sale
- 17 4. When responding to general factual questions from a prospective seller or a pro-
18 spective buyer concerning properties that have been advertised for sale

- 1 5. Situations in which a licensee's communications with a prospective buyer or a
2 prospective seller are limited to providing either written or oral communication
3 that is general, factual information about the qualifications, background, and
4 services of the licensee or the licensee's brokerage firm
- 5 6. When an owner is selling new residential units built by the owner and the
6 circumstances or setting should reasonably inform the potential buyer that the
7 owner's employee or single agent is acting on behalf of the owner, whether
8 because of the location of the sales office or because of office signage or placards
9 or identification badges worn by the owner's employee or single agent

10 If, during any of these situations, a member of the public begins to provide confiden-
11 tial information or begins to negotiate concerning price, terms, and so forth, the licensee
12 would at that point present the person with the appropriate disclosure notice depending
13 on the circumstances and desire of the parties.

Practice Questions

19. A residential sales transaction is defined as the sale of improved residential property
of _____ or fewer units.
20. Circle each example of a residential sale transaction.
a. Medical office condo listing
b. Condo unit listing in a 20-unit condominium complex of residential dwellings
c. Sales contract of a fourplex zoned multifamily residential
d. Lease agreement for a single-family dwelling
21. The no brokerage relationship notice must be given before the _____
_____.
22. The consent to transition to transaction broker notice includes a list of the
_____ that a transaction broker owes to the _____.
23. The single agent disclosure must be made before, or at the time of entering into a
_____ or before the _____ of property, whichever
occurs first.
24. Real estate brokers are required to retain buyer brokerage agreements for a period of
_____ years.

4.8 NONRESIDENTIAL TRANSACTIONS

15 Recall that the disclosure notice requirements discussed in this unit only apply to
16 residential sale transactions. However, brokers who deal in nonresidential transactions,
17 such as commercial and industrial property, are bound by Chapter 475 regarding the
18 brokerage relationship *duties* of nonrepresentation, single agent, and transaction broker
19 relationships.

475.2755,
F.S.

20 **Designated Sales Associates.** In a nonresidential real estate transaction where the
21 buyer and seller each have assets of \$1 million or more, the broker at the request of the
22 buyer and the seller may designate two sales associates to act as single agents for the buyer
23 and the seller in the same transaction. The two sales associates in such an arrangement

1 are called **designated sales associates**. (In a residential transaction, dual agency is illegal.)
 2 However, the designated sales associate form of representation in nonresidential transac-
 3 tions is *not* considered to be dual agency.

4 The broker serves as an advisor to each designated sales associate—not to the buyer
 5 or the seller. The broker serves as a neutral party helping to facilitate the process without
 6 giving guidance or representation to the parties in the transaction. Designated sales asso-
 7 ciates have the duties of a single agent.

8 **Disclosure Requirements.** The buyer and the seller must sign a disclosure notice stat-
 9 ing that their assets meet the \$1 million threshold and requesting that the broker use the
 10 designated sales associate form of representation. The disclosure notice includes special
 11 language regarding confidential information and also includes duties of a single agent (see
 12 Figure 4.6). Brokers must retain brokerage relationship disclosure documents for five years
 13 for all nonresidential transactions that use designated sales associates.

FIGURE 4.6 ■ Designated Sales Associate

I have assets of one million dollars or more. I request that *(Insert Name of Broker)* use the designated sales associate form of representation.

Signature of Buyer or Seller (circle one)

FLORIDA LAW PROHIBITS A DESIGNATED SALES ASSOCIATE FROM DISCLOSING, EXCEPT TO THE BROKER OR PERSONS SPECIFIED BY THE BROKER, INFORMATION MADE CONFIDENTIAL BY REQUEST OR AT THE INSTRUCTION OF THE CUSTOMER THE DESIGNATED SALES ASSOCIATE IS REPRESENTING. HOWEVER, FLORIDA LAW ALLOWS A DESIGNATED SALES ASSOCIATE TO DISCLOSE INFORMATION ALLOWED TO BE DISCLOSED OR REQUIRED TO BE DISCLOSED BY LAW AND ALSO ALLOWS A DESIGNATED SALES ASSOCIATE TO DISCLOSE TO HIS OR HER BROKER, OR PERSONS SPECIFIED BY THE BROKER, CONFIDENTIAL INFORMATION OF A CUSTOMER FOR THE PURPOSE OF SEEKING ADVICE OR ASSISTANCE FOR THE BENEFIT OF THE CUSTOMER IN REGARD TO A TRANSACTION. FLORIDA LAW REQUIRES THAT THE BROKER MUST HOLD THIS INFORMATION CONFIDENTIAL AND MAY NOT USE SUCH INFORMATION TO THE DETRIMENT OF THE OTHER PARTY.

SINGLE AGENT NOTICE

FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES OPERATING AS SINGLE AGENTS DISCLOSE TO BUYERS AND SELLERS THEIR DUTIES. As a single agent, *(Insert name of Real Estate Entity)* and its Associates owe to you the following duties:

1. Dealing honestly and fairly;
2. Loyalty;
3. Confidentiality;
4. Obedience;
5. Full disclosure;
6. Accounting for all funds;
7. Skill, care, and diligence in the transaction;
8. Presenting all offers and counteroffers in a timely manner, unless a party has previously directed the licensee otherwise in writing; and
9. Disclosing all known facts that materially affect the value of residential real property and are not readily observable.

 Seller or (buyer)

 Signature Date

Practice Questions

25. Designated sales associates are used only in _____ transactions.
26. The broker serves as an advisor to the _____.
27. The designated sales associates act as _____ for the buyer and the seller in the same transaction.
28. Designated sales associates have the duties of a _____.

4.9 TERMINATING A BROKERAGE RELATIONSHIP

Generally speaking, a transaction broker relationship or a single agent relationship is terminated when the objectives have been accomplished according to the terms of the contract that created the brokerage relationship and notice is given to the other party. A principal is justified in revoking a single agent relationship with the broker if the broker-agent breaches any of the fiduciary duties.

A brokerage relationship between a principal (or a customer) and a broker may be terminated for any one of the following reasons:

- Fulfillment of the brokerage relationship's purpose (for example, finding a ready, willing, and able buyer).
- Mutual agreement to terminate the brokerage relationship.
- Expiration of the terms of the agreement. (If no term is specified, the courts have ruled that a brokerage relationship may be terminated after a "reasonable" time.)
- Broker renounces the single agent relationship by giving notice to the principal or the broker renounces the transaction broker relationship by giving notice to the customer.
- Principal revokes a single agent relationship or the customer revokes a transaction broker relationship, by giving notice. (In this case, the principal or the customer may be liable for damages, such as advertising expenses, incurred by revoking the brokerage relationship before the termination date of the listing agreement or exclusive buyer agreement.)
- Death of a seller's broker or the seller before the broker finds a ready, willing, and able buyer.
- Death of the buyer's broker or the buyer before the broker finds a suitable property for the buyer.
- Destruction of the property or condemnation by eminent domain.
- Bankruptcy of the principal or the customer.

Practice Questions

29. Fill in the blanks to complete the list of reasons that a brokerage relationship may be terminated:
- _____ of the brokerage relationship's purpose.
- _____ to terminate.
- _____ of the seller's property.
- _____ of a seller's broker or the seller before the broker finds a ready, willing, and able buyer.
- _____ of the principal or the customer.

4.10 SUMMARY OF IMPORTANT POINTS

- A person who delegates authority to another is the *principal*. A person who accepts the authority is the *agent*. An agent is authorized to represent and act for the principal. The agency relationship creates a *fiduciary* relationship with the principal. A fiduciary acts in a position of trust and confidence with the principal.
- A real estate licensee may act as a special agent with buyers or sellers. This occurs when the buyer or the seller, but not both, and the brokerage firm enter into a single agent relationship. In this relationship, the buyer or the seller is the principal and the broker is the agent.
- In all real estate transactions, there are three options concerning the role the real estate brokerage firm will assume: (1) nonrepresentation (or no brokerage relationship) for the buyer and/or the seller, (2) single agent of either the buyer or the seller, and (3) transaction broker for the buyer and/or the seller.
- Licensees may not operate as dual agents. A dual agent is a broker who represents both the buyer and the seller as a fiduciary in the same transaction.
- The duties and obligations in each type of brokerage relationship apply to all real estate transactions.
- License law mandates that a real estate broker working in a no brokerage relationship capacity has three duties: (1) deal honest and fairly, (2) disclose all known facts that materially affect the value of residential real property that are not readily observable to the buyer, and (3) account for all funds entrusted to the licensee.
- F.S. 475 mandates that a real estate broker working as a single agent has the duties required in a no brokerage relationship plus the first two additional duties required in a transaction broker relationship. Four duties apply exclusively to a broker working as a single agent: (1) confidentiality, (2) obedience, (3) loyalty, and (4) full disclosure.
- License law mandates that a real estate broker working as a transaction broker has the duties required in a no brokerage relationship plus four additional duties: (1) use skill, care, and diligence; (2) present all offers and counteroffers; (3) exercise limited confidentiality; and (4) perform additional duties that are mutually agreed to.
- A written disclosure is required for residential transactions when a single agent relationship or nonrepresentation is chosen. The single agency disclosure must be made before, or at the time of, entering into a listing agreement or an agreement for representation, or before the showing of property, whichever occurs first. The no brokerage relationship disclosure must be made before the showing of property.
- A *residential sale transaction* is defined as the sale of improved property of four or fewer residential units, the sale of unimproved property intended for use as four or fewer residential units, or the sale of agricultural property of 10 or fewer acres.
- Under Florida law, it is presumed that all licensees are operating as transaction brokers unless another brokerage relationship is chosen. A transaction broker provides limited representation to a buyer, a seller, or both, but does not represent either in a fiduciary capacity or as a single agent.

- 1 ■ A real estate broker may change from a single agent relationship to a transaction
2 broker relationship only with the express written permission of the principal. The
3 principal must sign or initial the Consent to Transition to Transaction Broker
4 disclosure before the change can occur.
- 5 ■ Brokers must retain brokerage relationship disclosure documents for five years for
6 all residential transactions that result in a written offer to purchase and sell real
7 property and all nonresidential transactions that use designated sales associates.
- 8 ■ In a nonresidential transaction and where the buyer and the seller each have
9 assets of \$1 million or more, the broker, at the request of the buyer and the
10 seller, may designate two sales associates to be *designated sales associates*. Each
11 designated sales associate has a fiduciary responsibility to their client (buyer or
12 seller). The broker acts as a neutral party advising the designated sales associates
13 to help facilitate the process. The buyer and the seller must sign the Designated
14 Sales Associate disclosure form attesting to the duties of the agents and their
15 assets meeting the minimum of \$1 million.

UNIT 4 EXAM

1. A real estate brokerage company has entered into a single agent buyer broker relationship with the buyer. In order to show this buyer property that is listed with the same brokerage company for which it is a single agent, in what brokerage capacity may the company work with this buyer and seller?
 - a. Single agent for the seller and transaction broker for the buyer
 - b. Single agent for the seller and single agent for the buyer
 - c. Any relationship that is agreed to by both the buyer and the seller
 - d. Both the seller and the buyer must transition to a transaction broker relationship before the buyer can be shown the seller's property
2. The brokerage relationship disclosure requirements in Chapter 475, F.S., apply to the
 - a. sale of a 20-unit apartment complex.
 - b. sale of a condominium unit.
 - c. residential lease agreement in a duplex.
 - d. sale of a bookstore business and real property.
3. Which statement BEST describes the duty of loyalty in a single agent relationship?
 - a. The broker must act in the best interest of the principal.
 - b. The broker must disclose all latent defects to prospective buyers.
 - c. The broker is held to a standard of care that requires knowledge concerning the land and physical characteristics of the property.
 - d. The broker must be able to account for all funds received on behalf of the principal.
4. A real estate broker who works in a limited capacity for both the buyer and the seller in the same transaction is
 - a. a dual agent.
 - b. a transaction broker.
 - c. bound to fiduciary duties to both the buyer and the seller.
 - d. a single agent of both the buyer and the seller.
5. A licensee of ABC Realty must give the no brokerage relationship notice to
 - a. a buyer who has a single agent relationship with XYZ Realty.
 - b. every prospective buyer and prospective seller in all cases.
 - c. a for-sale-by-owner (FSBO) seller before showing the FSBO home to a buyer customer of ABC Realty.
 - d. every prospective buyer who walks through an open house listed by ABC Realty.
6. A broker has listed a seller's property. The seller has disclosed to the broker that the ceramic tile is loose in the dining room because the cement did not adhere to the tile. The loose tile is not readily visible because it is covered with an area rug to protect the seller's toddler. The broker has satisfied his legal obligation if he tells the buyer
 - a. that the floor appears to be in good condition.
 - b. that ceramic tiles in the dining room are loose.
 - c. that the buyer can order an inspection at his own expense if he is concerned about the floor.
 - d. nothing unless he is asked specifically about the tile floor's condition.
7. A transaction broker has all the duties listed EXCEPT
 - a. limited confidentiality.
 - b. to use skill, care, and diligence.
 - c. to disclose all known facts that materially affect the value of residential real property and are not readily observable to the buyer.
 - d. obedience.

8. A seller lists her home for \$216,900. The seller tells the sales associate that she needs to get at least \$212,000 for the home. After Sunday's open house, the sales associate receives two offers on the home. The first offer for \$216,900 is contingent on the seller's financing a portion of the down payment. The second offer is for \$209,000, with the prequalified buyer to secure her own financing. The sales associate should
 - a. seek his broker's advice regarding which offer to present.
 - b. present the full-price offer to the seller.
 - c. present the second offer to the seller.
 - d. present both offers, explaining the details of each to the seller.
9. In the common public relationship that exists in a typical real estate transaction, buyers and sellers are said to be dealing
 - a. in a fiduciary capacity.
 - b. at arm's length with each other.
 - c. in an agency status with each other.
 - d. under the doctrine of ethical confidentiality.
10. If a principal gives the broker instructions that will result in loss or harm to the principal, the broker
 - a. is justified in not carrying out such instructions.
 - b. should carry out such instructions without question.
 - c. should carry out only that portion of the instructions that will not cause loss or harm to the principal.
 - d. should inform the principal of possible harm inherent in the instructions, and then either do as instructed or withdraw from the relationship.
11. A broker's obligations to consumers with whom the brokerage firm has no brokerage relationship include the duty of
 - a. full disclosure.
 - b. accounting for all funds.
 - c. loyalty.
 - d. limited confidentiality.
12. Designated sales associates are BEST described as
 - a. single agents for the buyer and the seller in nonresidential transactions where the buyer and the seller meet certain asset thresholds.
 - b. the sales associates designated to represent the buyer and the seller in a transaction broker relationship.
 - c. undisclosed dual agents.
 - d. the sales associates in charge of the required brokerage disclosure forms for the brokerage office.
13. Which relationship is a general agency relationship?
 - a. Brokerage company employed under a listing agreement
 - b. Relationship between the employing broker and a broker associate
 - c. Sales associate working with a prospective buyer
 - d. Relationship between a sales associate and the seller who has listed property with the brokerage
14. Which action will terminate a single agent relationship with the principal who has listed a home for sale with the brokerage?
 - a. Death of a customer interested in the listing
 - b. Buyer's offer not accepted by the seller
 - c. Decision of sales associate who acquired the listing for the brokerage to leave the company
 - d. Destruction of the listed property by a large sinkhole
15. A real estate broker (and the broker's associates) are obligated to which duty in all three brokerage relationships?
 - a. Loyalty
 - b. Full disclosure
 - c. Deal honestly and fairly
 - d. Perform additional duties that are mutually agreed to