



SALES ASSOCIATE COURSE
CHAPTER 4

Authorized Relationships Duties and Disclosure



Livestream Students: WEBCAM POLICY

To receive credit for this course:

1. Camera must be **ON**

AND

2. Student must be **VISIBLE** to the instructor for the **ENTIRE** time class is in session

- No driving around during class, running errands, sleeping on camera, etc. We can see you!
- **No Exceptions**
- Review students that do not need course credits may attend without having their camera on.

A young girl with dark hair wearing a black hijab is looking directly at the camera. Her hands are raised, with her index fingers pointing towards her eyes and her thumbs pointing towards her cheeks, framing her face. The background is a soft-focus outdoor scene with green foliage and a blue sky.

Webcam Policy Reminder!

1. Common

Unwritten

Custom and court decisions

Compensatory and punitive

2. Statutory – criminal courts

F.S. 455 - DBPR

F.S. 475 – FREC

Legislature (written)

Monetary and imprisonment

3. Administrative

61J2 Florida Administrative Code

Monetary



Three Categories of Law





Agency Law

Principal – Agent relationship

1. Employer – principal
2. Relationship based on trust
3. Agent works on behalf of employer

Three Types of Agents

An agent is a person entrusted to represent another. The three types are:

Universal Agent

Everything



General Agent

One Business



Special Agent

One Transaction





Subagent

1. Not a type of agency
2. Extension of another agency
3. Act on behalf of another agent
4. Owes same duties to principal as original agent
5. Sales/Broker Associates
 - I. General agents of broker
 - II. Subagent of brokers principals

Purpose: Inform and educate the public

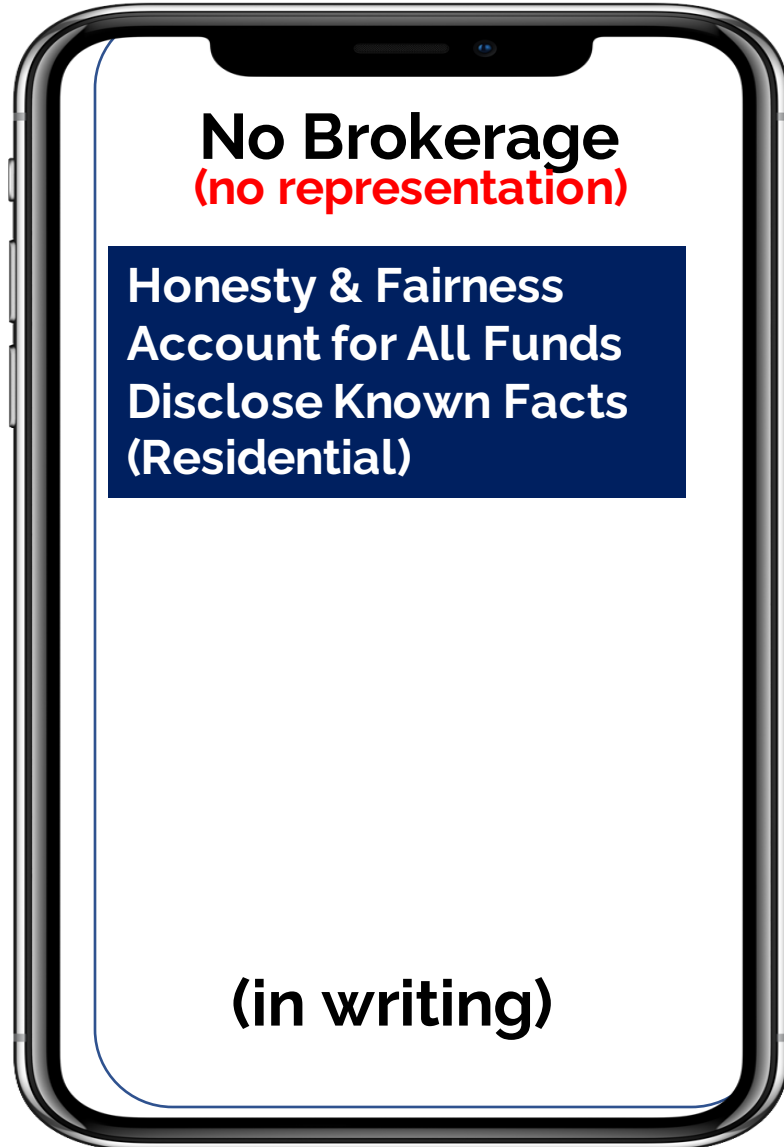
Defines relationship between broker and brokers employer

1. Residential
2. Non-residential
3. Disclosure forms

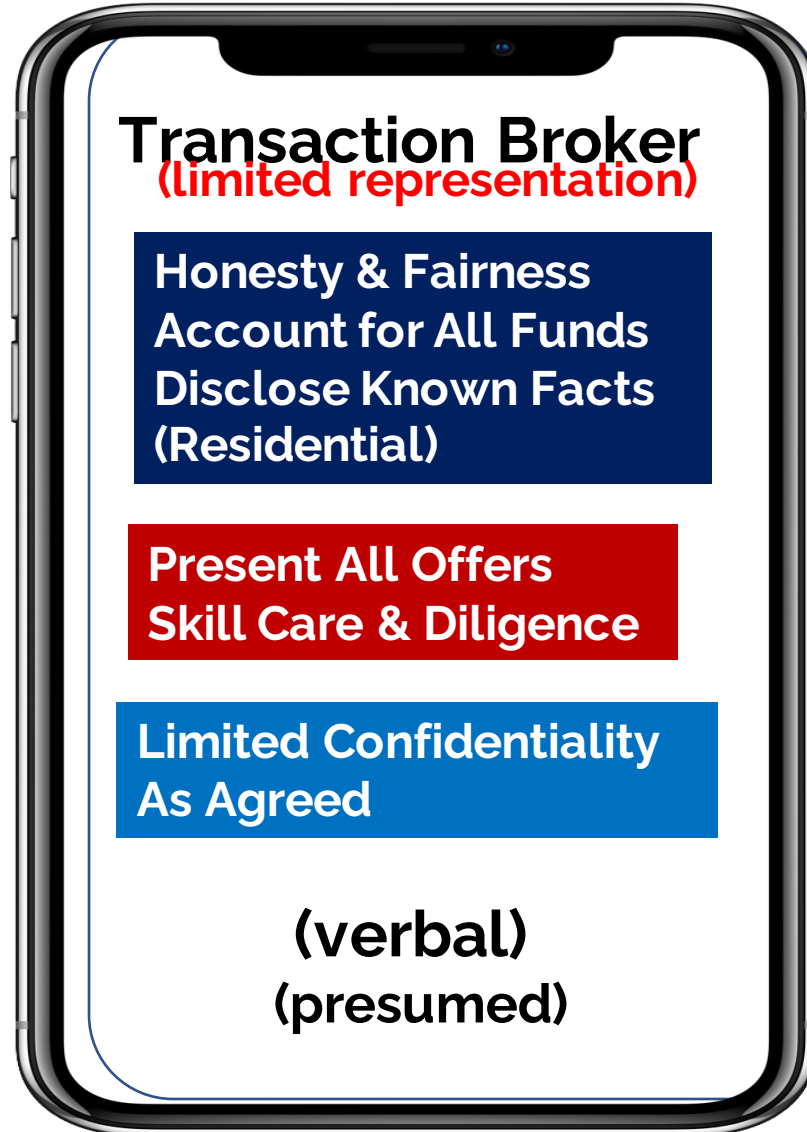
Brokerage Relationship Disclosure Act

Brokerage Relationships

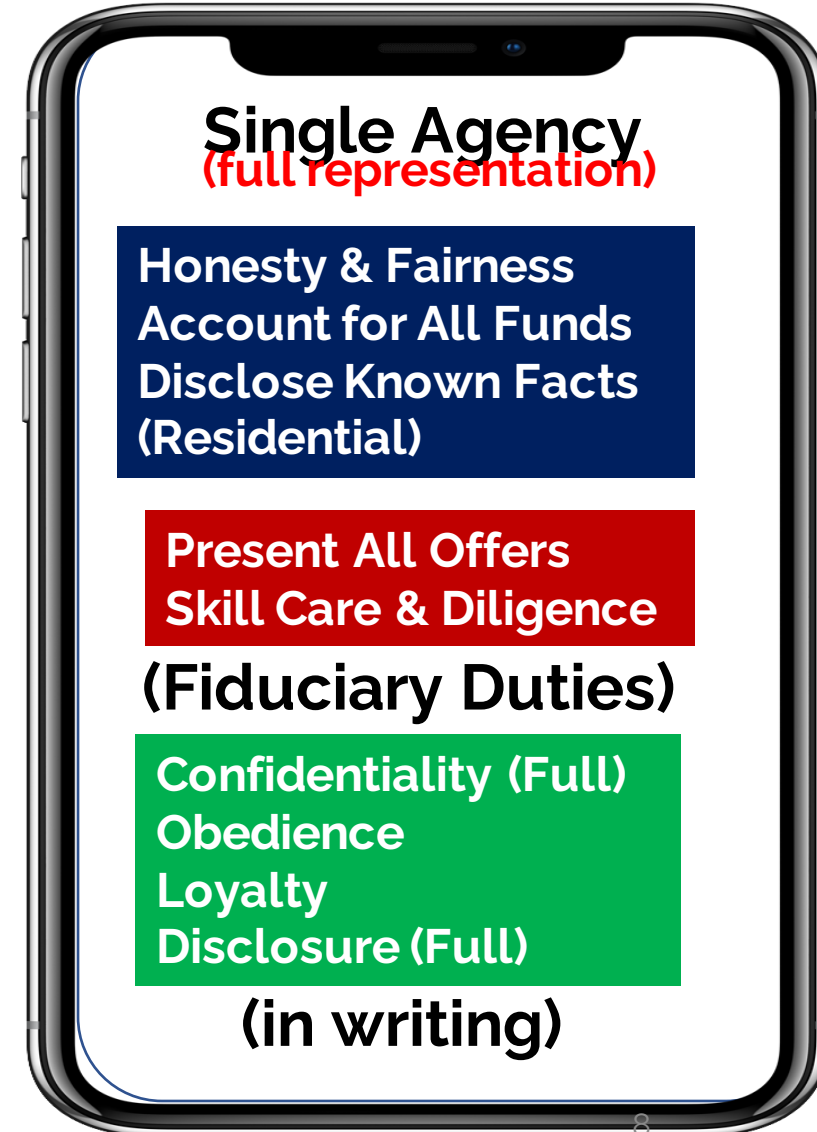
Consumer

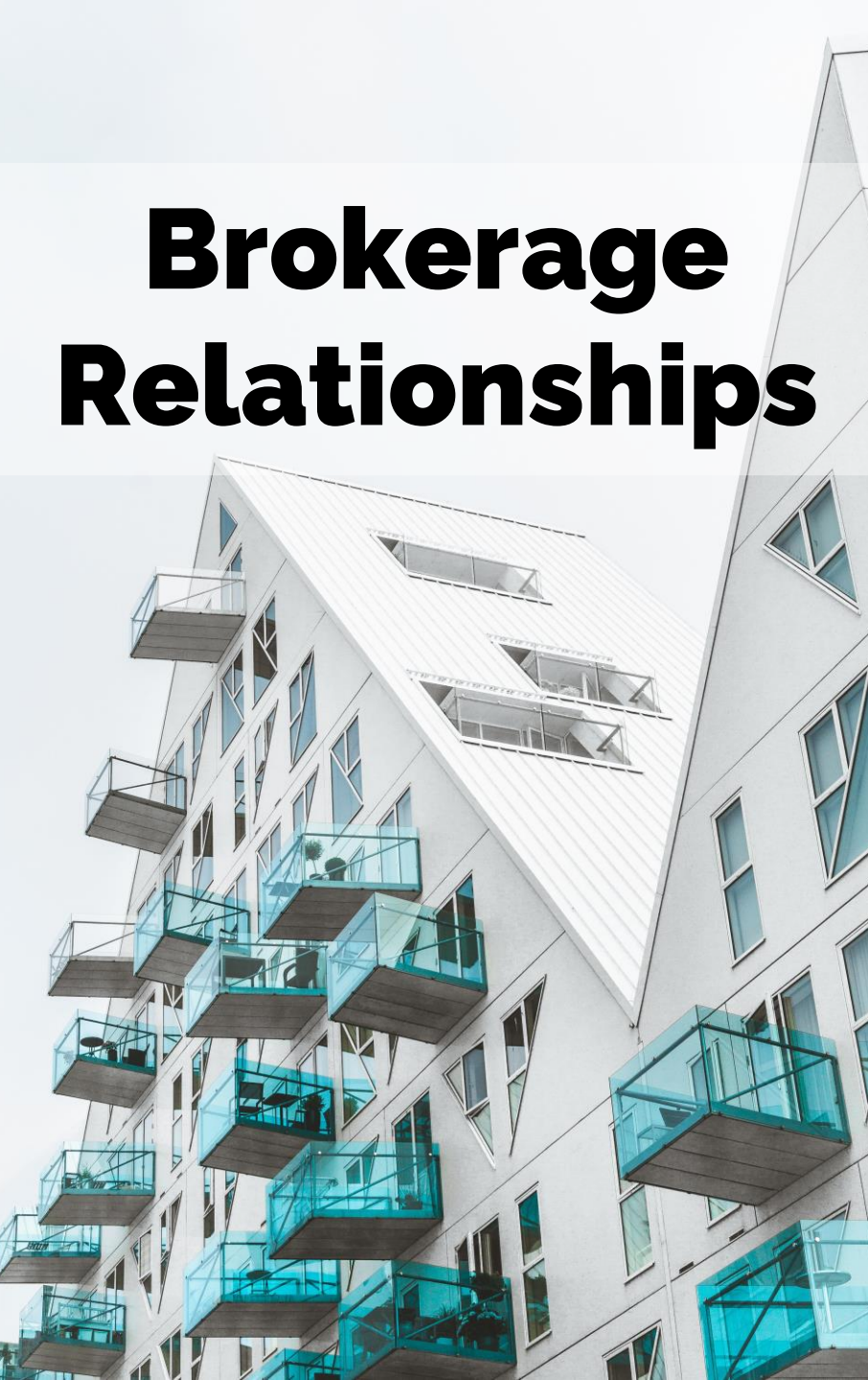


Customer



Principal





Brokerage Relationships

- **Single Agency** – Full representation for buyer or seller (not both)
 - Dual Agency – Full representation for buyer and seller (illegal)
- **Transaction Brokerage** – Limited representation for both buyer and seller in the same transaction (legal)
- **No Brokerage Relationship** – No representation
 - e.g. For-Sale-By-Owner

Residential Transaction



Residential sales – required disclosures

- Improved residential property of 4 units or less
- Vacant (unimproved) land zoned for 4 residential units or less
- Agricultural property of 10 acres or less
- Leases with option to purchase with 4 or less units
- Business interests with 4 residential units or less

- **Transaction Broker, Single Agency and No Brokerage Relationships**

- Must be made
 - Before entering into an agreement
 - Before showing property
 - Whichever occurs first



Disclosure Requirements

Disclosure Exemptions

- Non-residential
- Rental or leasing
- Bona fide “open house”
- Casual conversation
- Answering factual questions
- Auctions
- Appraisals
- Business opportunities/enterprises



Retaining Disclosure Documents

Residential transactions

- Result –written contract
- Retain for 5 years
- Whether:
 - Transaction closes
 - Fails to close

- Licensees owe duty of good faith and honesty to customers
- A broker's customers are entitled to rely on any material statement related to a real estate transaction made by a licensee
- **Required in all types of relationships**

A photograph of a middle-aged man with grey hair and glasses, wearing a dark grey suit, a blue shirt, and a patterned tie. He is standing with his hands in his pockets, looking directly at the camera. The background is a blurred modern building with large windows and geometric shapes.

Honesty and Fairness



Disclose Known Facts

- Licensee must disclose to buyers all known facts that materially affect the value of RESIDENTIAL property
- **Required in all types of relationships**



Skill Care and Diligence

- Broker must
 - Keep informed on changes and developments that may affect the value of the property
 - Use diligence in facilitating the transaction
- **Single agency or transaction brokerage**



Present all Offers

Licensee must present all offers and counter offers in a timely manner

- Unless directed by a party to the contract (buyer or seller) in writing
- Including written and oral offers

Single agency or transaction brokerage



Presenting Offers

Duty to transmit all offers

- Verbal
- Written
- No binder deposit
- Exception: employer instructs not to
- Brokers do not accept/reject offers
- Exception: power of attorney



Limited Confidentiality

- Transaction Brokerage
 - Unless waived in writing
 - Three areas are confidential
 - Price other than current offer
 - Terms other than current offer
 - Motivation
- **Transaction brokerage only**

- Single Agency
 - A broker may not reveal to a third party, without the principal's permission, information that may lessen the principal's bargaining position
- **Single agency only**



Full Confidentiality

Obedience



- A broker is obligated to follow all legal instructions of the principal
 - Advise the principal and then obey or withdraw from the relationship
- A broker may not follow an illegal instruction
- **Single agency only**



Loyalty

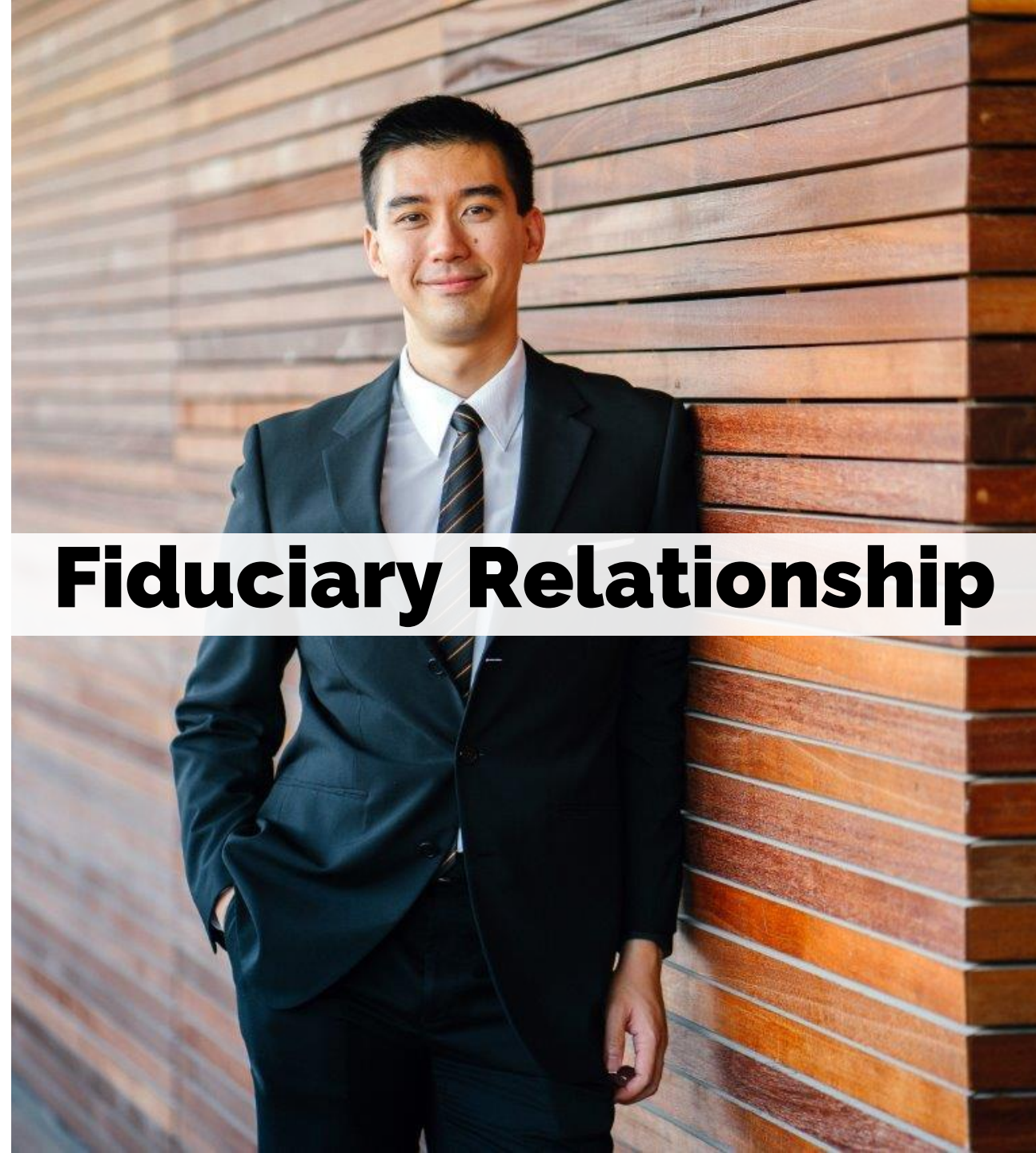
- A broker may not adopt an attitude adverse to the principal's interest
- A broker must work for the best price and terms for the principal
- **Single agency only**

- A broker must keep the principal informed of any information that might affect the transaction or the value of the property
- **Single agency only**



Full Disclosure

- Mutual Trust and Confidence
 - Between a broker (agent) and sellers or buyers (principals or clients)
 - When accepted as a part of single agency
- The opposite of dealing at Arm's Length (Caveat Emptor)



Fiduciary Relationship



Dual Agency

- Single Agency (Full) representation
 - Represent one party as single agent
 - Cannot represent the other party as a single agent or transaction broker
 - Could represent the other party in a no brokerage relationship
- Dual Agency is illegal in Florida

- Change from single agent to transaction broker
 - Requires written consent
 - Prior to transition
 - Signed by the principal(s)
- Signatures
 - Recommended for all disclosures
 - Required for Transition to Transaction Broker



Consent to Transition to Transaction Broker

Designated Sales Associate

Key: Broker Advises Licensees (Not: Buyers & Sellers)



**ABC
Real Estate
Company**

Represents



Same
Transaction



Buyer Broker assigned
Sales Associate
(Single Agent)



Seller Broker assigned
Sales Associate
(Single Agent)

1. Non-residential
2. Requested by both parties
3. \$1 Million or more in assets



Arm's Length Relationships

- Adversaries
- Opposite of fiduciary relationship
- "Caveat emptor" (buyer beware)
- Buyer and seller acting in their own best interest



Terminating Brokerage Relationship

Terminated by:

- Fulfillment of agency purpose
- Mutual agreement
- Expiration of term
- Agent renunciation by giving notice to principal
- Revocation by principal
- Death
- Destruction of the property
- Bankruptcy

Policy and Procedures Manual

- Provides guidance
- Not required
- Release broker from liability
- Creates harmony
- Brokerage relationships
- Document retention
- Do not Call laws, etc.





Coffee Break

15 Minutes