

## Connecticut Real Estate Agent Fiduciary Duties Review and Law Update

Connecticut Real Estate Licensee  
Mandatory Continuing Education Course  
2010-2012 CE Cycle

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The course was developed by the  
**Center for Real Estate and Urban Economic Studies**  
**University of Connecticut**  
at the request of the Connecticut Real Estate Commission

Special thanks to the following individuals for their contributions:

- **Katherine Pancak, Professor, University of Connecticut**
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- Terry Hastings, HamiltonLadd Home Loans
- Judith Johanssen, Esq., Connecticut Association of Realtors, Inc.®
- John Morgan, Morgan Testing Services
- Lauren Rubino, Real Estate Consultant

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## Course Goals

- Understand the difference between a \_\_\_\_\_ and a \_\_\_\_\_.
- Identify \_\_\_\_\_ and \_\_\_\_\_ FIDUCIARY DUTIES owed to clients.
- Discuss facts and outcomes of \_\_\_\_\_ related to real estate agent fiduciary duties.
- Talk about \_\_\_\_\_ in practice that agents seem confused about.
- Learn about \_\_\_\_\_ related to real estate practice.

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## Licensee Relationships

Real estate **licensee** can work with a real estate **consumer** in one of two ways:

1. **Client** – \_\_\_\_\_
  - signed agency agreement with your brokerage firm
  - \_\_\_\_\_
2. **Customer** – \_\_\_\_\_
  - either another brokerage firm represents consumer or consumer is unrepresented
  - \_\_\_\_\_

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## Who's Your Client?

- Firm's \_\_\_\_\_ enters into agency relationship with client
  - written representation agreement
- \_\_\_\_\_ salespeople and brokers sponsored by or affiliated with firm \_\_\_\_\_ client
  - only exception – a salesperson who is a designated agent
- Agency relationships \_\_\_\_\_ run along in-house team lines

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## Duties to Clients

- **Common Law**
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- **State Licensing Law and Regulations**
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## FIDUCIARY DUTIES

- C \_\_\_\_\_
- O \_\_\_\_\_
- A \_\_\_\_\_
- L \_\_\_\_\_
- 
- D \_\_\_\_\_

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## Confidentiality

- **Common Law:**
  - Agent must keep client's \_\_\_\_\_ and \_\_\_\_\_ information confidential.
- **State Licensing Law:**
  - Agent cannot reveal confidential information about client.
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## Confidentiality? You be the judge!

- **Confidentiality Case Study 1**
  - First Agent enters into a listing with sellers and learns that the property is being sold because sellers are getting divorced. Listing expires. Sellers relist property with another firm. First Agent shows house to buyer client. Can First Agent disclose information about divorce?

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## Confidentiality? You be the judge!

### • Confidentiality Case Study 2

– First Agent enters into listing with sellers. Learns about foundation cracks in sellers' property. Listing expires. Sellers paint over cracks and relist house with another firm. First Agent shows house to buyer client. Can First Agent share information about cracks?

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## Confidentiality? You be the judge!

### • Time for Group Discussion



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## Confidentiality? You be the judge!

### • Confidentiality Case Study 1: RESULT

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## Confidentiality? You be the judge!

### • Confidentiality Case Study 2: RESULT

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## Obedience

### • Common Law:

- Agent must \_\_\_\_\_ client's instructions.

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## Obedience? You be the judge!

### • Obedience Case Study 1

- Buyer client asked for a home inspection, and agent said he would take care of it. Agent failed to have an inspection done. After closing buyer client found serious defects and sued agent. What result?

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## Obedience? You be the judge!

### • **Obedience Case Study 2**

– Buyer client asked agent for information about the ethnic make-up of a neighborhood, insisting that they could not live in a neighborhood where people had ethnic backgrounds that would make them potential terrorists. Agent failed to investigate the neighborhood's ethnic background. After closing buyer client found that the house they bought was located in a middle-eastern neighborhood. What result?

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## Obedience? You be the judge!

### • **Time for Group Discussion**



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## Obedience? You be the judge!

### • **Obedience Case Study 1: RESULT**

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## Obedience? You be the judge!

### • Obedience Case Study 2: RESULT

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## Accounting

### • Common Law:

- Agent must \_\_\_\_\_ for all \_\_\_\_\_ and \_\_\_\_\_ held for client.

### • State Licensing Law:

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## Accounting? You be the judge!

### • Accounting Case Study 1

- Seller's broker held \$16,000 escrow deposit that was to be used as liquidated damages if buyer defaulted on contract. Buyer defaulted; parties agreed to split escrow. Broker refused to release escrow until commission was paid. Can broker do that?

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## Accounting? You be the judge!

### • Accounting Case Study 2

- Seller and buyer entered into a rescission agreement, where escrow deposit was to be returned to the buyer. Seller's broker did not deliver check; buyer contacted DCP. DCP required broker to deliver check to DCP office where buyer broker could pick it up. Check was written on seller's brokerage firm general operating account. Check bounces at first, then clears after redeposit. What result?

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## Accounting? You be the judge!

### • Time for Group Discussion



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## Accounting? You be the judge!

### • Accounting Case Study 1: RESULT

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## Accounting? You be the judge!

### • Accounting Case Study 2: RESULT

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## Loyalty

### • Common Law:

- Agent must put \_\_\_\_\_ first.
- Agent must use \_\_\_\_\_ and \_\_\_\_\_ to represent client competently.

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## Loyalty, continued

### • State Licensing Law:

- Agent must \_\_\_\_\_ any interest that agent has in property to client and customer.
- Agent (or anyone in agent's family) can't \_\_\_\_\_ listed property listed without disclosure to seller.
- Agent \_\_\_\_\_ must disclose ownership interest to buyers.
- Agent entering into exclusive representation agreement must make \_\_\_\_\_ to sell, lease, or find a property.

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### Loyalty? You be the judge!

#### Loyalty Case Study 1

– Brother and sister inherit a house. Siblings entered into listing agreement with designated broker in firm. Second broker in firm makes an offer of \$115,000; siblings accept. Second broker immediately resells house for \$160,000. Is this a problem?

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### Loyalty? You be the judge!

#### Loyalty Case Study 2

– Buyer client sued real estate brokerage firm for failure to disclose that firm represented other buyers bidding on the same property. What result?

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### Loyalty? You be the judge!

#### Loyalty Case Study 3

– Agent represented buyer. Agent recommended a home inspector; inspector lacked necessary expertise to perform a home inspection and failed to discover insect infestation. Buyer sued agent for violation of fiduciary duty. What result?

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## Loyalty? You be the judge!

### • Time for Group Discussion



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## Loyalty? You be the judge!

### • Loyalty Case Study 1: RESULT

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## Loyalty? You be the judge!

### • Loyalty Case Study 2: RESULT

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## Loyalty? You be the judge!

### Loyalty Case Study 3: RESULT

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## Disclosure

### Common Law:

– Agent must \_\_\_\_\_ client of all information \_\_\_\_\_ to the transaction.

### State Licensing Law:

– Agent cannot \_\_\_\_\_ or \_\_\_\_\_ any \_\_\_\_\_.

• However, certain facts are considered legally \_\_\_\_\_, including \_\_\_\_\_.

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## Disclosure? You be the judge!

### Disclosure Case Study 1

– Agent failed to tell buyer client that seller would take \$24,000 less for property. Buyer client complained to state real estate board. What result?

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### Disclosure? You be the judge!

#### • Disclosure Case Study 2

– Agent represented buyer. Agent failed to explain to buyer that purchase was subject to short sale bank approval. Buyer expended money in preparation for purchase. Short sale was not approved. Buyer sues agent and files complaint with Real Estate Commission. What result?

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### Disclosure? You be the judge!

#### • Disclosure Case Study 3

– Agent represented buyer. Buyer bought property and later found out that the property acreage was incorrectly reported in the listing. Agent did not independently verify the acreage. Buyer sues agent. What result?

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### Disclosure? You be the judge!

#### • Time for Group Discussion



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**Disclosure? You be the judge!**

• **Disclosure Case Study 1: RESULT**

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**Disclosure? You be the judge!**

• **Disclosure Case Study 2: RESULT**

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**Disclosure? You be the judge!**

• **Disclosure Case Study 3: RESULT**

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### Are your internet ads in compliance?



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### Current Topics, continued

#### • Legal Entity Licensing

- All partnerships, associations, corporations, and LLCs engaging in real estate must be \_\_\_\_\_.
- \_\_\_\_\_% or more of entity must be owned by one or more licensed \_\_\_\_\_.

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### Current Topics, continued

#### • Legal Entity Licensing, continued

- Each \_\_\_\_\_ of a real estate brokerage firm must be licensed as a broker (salespersons not allowed).
- Each \_\_\_\_\_ of a real estate brokerage firm that actively manages or controls the real estate brokerage business must be licensed as a broker (salespersons not allowed).

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*Is your company  
(or other legal entity) licensed?*

**www.elicense.ct.gov**

Lookup a License  
 Generate Roster  
 Download Roster

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**Current Topics, continued**

- **Lapsed Licenses**
  - Once license expires individual cannot lawfully engage in real estate.
    - BROKER –
    - SALESPERSON –
  - Broker with expired license cannot
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**Current Topics, continued**

- **Lapsed Licenses, continued**
  - Do you know the date your license expires?
    - can check status of licenses at <https://www.elicense.ct.gov>
  - There is \_\_\_\_\_.
    - formerly 30 day period to pay with no fine
    - as of 10/01/2010, will be late fee if even 1 day late
  - Sanctions:
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*Do you renew every year  
in a timely manner?*

**www.elicense.ct.gov**  
renew online

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## LAW UPDATE

- **Appraisal Management Companies** (*state, effective 10/01/2010*)
  - \_\_\_\_\_ required
  - CT Public Act 10-77
- **Dodd-Frank Wall Street Reform and Consumer Protection Act** (*federal*)
  - Appraisal \_\_\_\_\_ requirements
    - regulations to be developed
  - H.R. 4173

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## Law Update, continued

- **Tenant Foreclosure Protection** (*state*)
  - \_\_\_ days after title transfers to vacate
  - Security deposit returned
    - if known, double deposit plus interest
    - if unknown, greater of 2 months rent of \$2,000
  - CGS Sections 47a-20e, 47a-20f
- **Tenant Foreclosure Protection** (*federal*)
  - \_\_\_ notice to vacate (*sunsets 12/31/2012*)

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## WRAP-UP

- *Instructor should report and discuss any other current topics or recent real estate brokerage-related Connecticut legislation or court cases.*

- **QUESTIONS?**
- **COMMENTS?**

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