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DUAL AGENCY and The Real Estate Agent –

Can it be possible?.

by Linda Neil

In real estate the party that represents a buyer and or a seller in the purchase or sale of a property, is called an agent. In Mexico as in other countries of the world, the agent has a duty to treat his principal in an ethical and professional manner. The Mercantile Code, Articles 273 to 308 outline the obligations involved in representing the interests of the client. Both law and custom make it very difficult for the conscientious agent to represent BOTH buyer and seller since the buyer wants to buy the property for the lowest price possible and the seller is looking for the greatest amount of money he can get for his property.

With this in mind, how can the conscientious agent honestly represent both parties? Almost anyone will agree; there is a conflict of interest when anyone tries to fairly represent both sides of a transaction.

No matter how much the agent needs or wants the money that will come from a FULL commission, it is better to call in a colleague to represent one side or the other. That way both share in the commission, both principals are honestly and fairly served and the agent will have clients who will recommend his or her services to other friends and acquaintances

It ends up being win-win for everyone!

To reinforce the relationship with buyer or seller clients it is important to understand and discuss this with the client; outline the responsibilities of the buyer's agent, the obligations of the seller's agent and how to handle the important issues such as money where price is being negotiated. A confirmation of the relationship should be signed with the buyer or seller client.

Not only does this confirm the essentials of the fiduciary relationship, but also the clients, knowing that an agent is working EXCLUSIVELY for them, and not the other side, will be much more likely to remain loyal to his/her agent.

And what are the obligations and responsibilities? Simply put, the SELLER'S AGENT has the obligation to counsel his seller as to fair and reasonable selling price, as to the importance of disclosure of defects in the

property, as well as to offer the property to the widest audience possible. The purpose of this, of course, is to obtain the highest price possible for the property.

The BUYER'S AGENT should assist the client in locating the best property possible which will meet buyer's requirements. Once located, the property should be inspected as to suitability for the purpose intended and the most attractive price and terms possible negotiated for the acquisition of the property.

In all cases, the agent must treat all parties with honesty and fairness.

Forms confirming agency relationships are available by contacting the author at the address below.

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LINDA JONES NEIL has been designated as an Accredited Buyer's Representative (ABR) by the National Association of Realtors® (USA). She is also the founder of The Settlement Company®, which specializes in real estate transfers and escrows, specializing in the Virtual Closing®. Licensed as a California real estate broker, Ms. Neil has pursued her profession in Mexico for over thirty years. Her skills in negotiating contracts between parties from three distinct cultures have placed her services in demand as a consultant and for speaking engagements on Mexican law and customs in Mexico, the United States and Canada. She has been widely published on the subject of real property in Mexico. Memberships; FIABCI, AMPI and NAR. Linda is a former member of the National Advisory Council of AMPI and serves as NAR Presidential Liaison to Mexico.

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