

2023 NMREC CORE

4
CE

CORE



MESA
Real Estate Institute, LLC
New Mexico

In addition to the 2023, 2024 and 2025 Core Courses, MESA REI offer the following:

CORE ELECTIVES

A Blunt Conversation About Marijuana – 4 CE
A Look At Real World Issues: Claim Studies – 4 CE
Anatomy of a Listing Contract – 4 CE
Anatomy of a Purchase Contract – 4 CE
Broker Beware: Protect Your Real Estate License – 4 CE
Clear the Confusion: Offers (Counters, Multiples, Contingencies Etc.) – 4 CE
Disclose, Disclose, Disclose (Unless You're Not Supposed To) – 4 CE
E & O Insurance: Know What You Are Buying and Why – 4 CE
Highest And Best Offers: An Escalating Concern – 2 CE
Inspections, ORR's & Repairs, Oh My! – 2 CE
Intro to Seller Financing – 4 CE
NMAR Forms Update - 4 CE
NMAR's Many Miscellaneous Forms – 4 CE
One Thing Leads to Another – The PA contingencies Explained - 2 CE
QB Refresher Course 6 CE
Ready, Set, Go! Broker Duties and Other Required Disclosures – 2 CE
Taxes and Your Real Estate business – 4 CE
Triple D: Deadlines, Defaults and Definitions – 3 CE
Yes, Your Honor, I Did Disclose – 4 CE
Understanding And Using NMAR Forms – 8 CE
Wells and Septics - A Broker's Guide to Regulation – 4 CE

ETHICS ELECTIVES

Handling Multiple Offers Ethically and Effectively – 4 CE
NAR Code of Ethics & Enforcement – 4 CE

PROPERTY MANAGEMENT CORE ELECTIVES AND ELECTIVES

Property Management and the 3 Way Reconciliation – 2 CE Elective
RPM – Brokerage Operations 4 CE Core Elective
RPM – Case Studies 3 CE Core Elective
RPM – Going to Court 3 CE Core Elective
RPM – Leasing and Management 6 CE Core Elective
Trust Accounts – 4 CE Elective
UORRA – 6 CE Core Elective

ELECTIVES

Bump In the Pipe – 2 CE
7 Tech Tips to Level Up 2 CE

ON DEMAND CLASSES

NMREC Meeting Replays (CE varies by month) – Elective
Business Ethic in Real Estate – 4 CE Ethics
Closing On Time Is Possible – 3 CE Elective
Handling Multiple Offers Ethically and Effectively – 4 CE Ethics
Qualifying Broker Refresher Course – 6 CE (QB Elective) (AB Core Elective)

BUY 3 CLASSES AND GET 1 FREE

Register for 3 classes at the same time and get your 4th class on us! Your free class must be of equal or lesser value. Does not include bundled courses. Your free class must be used within 6 months of payment. Sign up for 3 classes and give us a call. We can register you for your 4th class or give you a coupon towards a future class.

ASSOCIATE BROKER BUNDLE

36 hours of CE credit for \$420.00. This bundle includes 3 Core Courses, Ethics, Core Electives and Electives.

QUALIFYING BROKER BUNDLE

42 hours of CE credit for \$495.00. This bundle includes 3 Core Courses, Ethics, Core Electives, Electives, QB Refresher and NMREC Meeting Replay.

REFER A FRIEND

Refer a friend and receive 50% off your next CE Course with MESA! Your 50% off code will apply to regularly priced courses, not to bundled courses or special bundles.

PLEASE CONTACT US AT 505.348.3381.
SEE OUR COURSE SCHEDULE AT MESAREI.COM



AGENT OR TRANSACTION BROKER?



WHAT'S THE DIFFERENCE?

Agent or Transaction Broker?

WHAT?

Over the past 30 years or so, the New Mexico Real Estate Commission has made great strides in protecting consumers (and Brokers too) involved in real estate sales and lease transactions.

Agent or Transaction Broker?

WHAT?

Although today, most licensees practice as “Transaction Brokers,” that has not always been the case. Prior to the year 2000 and the creation of the “non-agency” relationship, most real estate licensees acted as “agents” of the Seller, to whom they owed “fiduciary duties.”

Agent or Transaction Broker?

WHAT?

Today, most brokers practice as “Transaction Brokers” and owe their customers and clients the Broker Duties in Part 19 of the NMREC rules. They do not owe fiduciary duties.

Agent or Transaction Broker?

WHAT?

It is important that customers and clients have a clear understanding of the brokerage relationship options available to them, and for them to acknowledge the brokerage relationship that exists between them and their broker in writing.

Agent or Transaction Broker?

WHY?

In 1983, the Federal Trade Commission conducted a survey of home buyers and sellers which revealed that 75% of those polled believed that the salesperson who showed properties to the buyer was working for the buyer.

Agent or Transaction Broker?

WHY?

Historically, however, real estate licensees worked, in residential real estate transactions, for the seller alone.

Agent or Transaction Broker?

WHY?

The salesperson who drove a buyer around town viewing houses, asking them about their finances and their family's particular housing needs, generally did not represent that buyer. In almost every instance the salesperson was actually a "subagent" of the seller.

Agent vs. Transaction Broker

WHY?

The distinction was important, because as a subagent of the seller, the salesperson working with the buyer had a duty to reveal to the seller all material facts the salesperson might learn about the buyer, including the highest price the buyer was capable of or willing to pay for the property.

Agent or Transaction Broker?

WHEN?

The 1990's saw dramatic changes in agency disclosure laws in response to consumer and agent sentiment; although, perhaps more importantly, to a landmark classaction lawsuit relating to undisclosed dual agency practices (Edina).

Agent or Transaction Broker?

WHEN?

While a number of states addressed these changes, in 1989 the National Association of REALTORS (NAR) required REALTORS to disclose agency relationships, and in 1992 recommended that buyers, sellers and brokers be free to choose from a range of brokerage relationships.

Agent or Transaction Broker

WHEN?

A change in New Mexico Licensing Law in 1991 allowed the Listing Broker to share a portion of the commission with a buyer or a Buyer's Broker which encouraged cooperation between Listing Brokers and Buyers' Brokers.

Additionally, this protected the interests of buyers.

Agent or Transaction Broker?

WHO?

Brokerages working with consumers, either as customers or clients, may do so through a variety of brokerage relationships. These relationships include but are not limited to a transaction broker relationship, an exclusive agency relationship or a dual agency relationship.

Agent or Transaction Broker?

WHO?

For all real estate transactions, a customer or client may enter into an express written agreement to become a client of a brokerage without creating an agency relationship, and no agency duties will be imposed.

Agent or Transaction Broker?

WHO?

WHO is responsible for understanding, explaining and assuring that sellers, buyers, tenants and landlords/owners are fully apprised of the brokerage relationships available to them in a New Mexico real estate transaction?

YOU!

DEFINITION

- Transaction Broker
- “A qualifying broker, associate broker or brokerage that provides real estate services without entering into an agency relationship.
- The transaction broker relationship is a non-fiduciary relationship.”
- 16.61.1.7 EEE NMAC

CODE OF ETHICS ARTICLE ONE

- *“When representing a buyer, seller, landlord, tenant, or other client as an **agent**, REALTORS® pledge themselves to **protect and promote** the interests of their client. This obligation to the client is primary, but it does not relieve REALTORS® of their obligation to treat all parties honestly.*
- *When serving a buyer, seller, landlord, tenant or other party in a **non-agency capacity** ... REALTORS® remain obligated to treat all parties honestly.”*

DEFINITION

- Facilitator
- *“The role of a brokerage in a in either a dual agency relationship or a transaction broker relationship in which the exclusive relationships between a seller or landlord client or buyer or tenant client are modified so that the brokerage impartially facilitates the transaction.”*
- 16.61.1.7 CC NMAC

DEFINITION

- Dual Agent
- *The brokerage in a dual agency relationship working as a facilitator in a single transaction for both a buyer client and a seller client who have modified existing exclusive agency agreements with the brokerage.*
- 16.61.1.7 V NMAC

DEFINITION

- In House Transaction
- *“A transaction in which both sides of the transaction occur under the supervision of one qualifying broker within the same brokerage.”*
- 16.61.1.7 GG

DEFINITION

- Brokerage
- *“A person, corporation, partnership or association qualified by a New Mexico licensed qualifying broker to conduct real estate brokerage activity in New Mexico.”*
- 16.61.1.7F

NOT AN IN-HOUSE TRANSACTION

- Different qualifying brokers in the same brokerage?
- What's that called?
- Brokerage is representing both buyer and seller. It is not an in house transaction

MIGHT BE AN IN-HOUSE TRANSACTION

- Same qualifying broker in different brokerages?
- What's that called?
- It's tricky.

LET'S COMPARE!

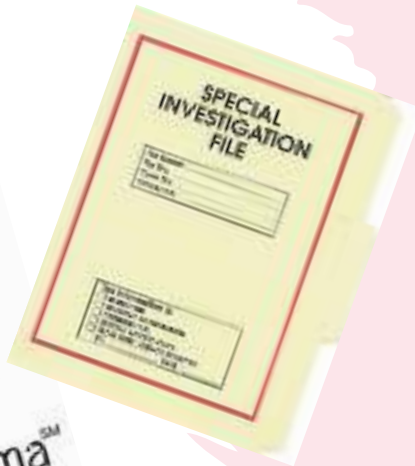
Transaction Broker

- Non-fiduciary
- Does not protect or promote (COE)
- Treats all parties honestly (COE)
- Owes the Broker Duties
- Listing Agreement
- Impartial facilitator for client or customer
- Does not make any decisions for anyone
- Provides real estate services to client or customer

Agent

- Fiduciary
- Protects and promotes (COE)
- Treats all parties honestly (COE)
- Owes the Broker Duties + Fiduciary Duties
- Listing Agreement + Agency Addendum
- Advocates for their Client
- *Can* make decisions for their Client
- Represents their Client (agency always requires a written Agency Agreement)

True Stories from the NMREC Investigative Staff



102

Buyer Bonnie was *so* excited to buy her first home. She was *over the moon* when Broker Bob found a quaint home for only \$120,000, her max pre-qualified amount.

In an addendum to the Purchase Agreement, the buyer was to receive up to 2.5% of the purchase price towards buyer's closing costs and prepaid amounts.

104

After the home inspection and Bonnie's repair request, Seller Sandra agreed to repair the roof (but did not agree to use a licensed roofer), some electrical repairs (to be made by a licensed electrician), a new water heater, some plumbing repairs including a slow draining bathtub, and replacement of weak flooring around the wood burning stove.

105

In lieu of the remaining repairs requested, Bonnie and Sandra agreed to reduce the price by \$1,000, to a new price of \$119,000. Both Buyer and Seller signed an amendment (Amendment #1) affirming the reduction in price.

106

At the walk through, Buyer Bonnie noticed that the only repair completed was the flooring around the wood burning stove. BB Bob contacted LB Luke who told Bob that Seller Sandra was sick and could not get the repairs done by the Closing Date. Seller Sandra and Buyer Bonnie then agreed on a seller credit of \$2,500 for the remaining repairs.

107

A second amendment was prepared and signed by both Buyer and Seller.

The Buyer's Broker relied on the Listing Broker to write the second Amendment.

This second amendment was also labeled "Amendment #1.

108

The Amendment also stated that if the lender would not allow the cash credit to the buyer, the seller would get to keep the money.

109

After two closing delays, the closing day finally arrived.

When Buyer Bonnie went to closing (neither broker attended the closing due to covid restrictions), she noticed that the lender's CD (119k) did not match the closing statement (120K).

Escrow Officer Elaine said that Listing Broker Luke advised her that the purchase price was \$120,000, not \$119,000.

110

Buyer Bonnie had already given notice to her landlord and had to be out of her rental within the week, so she paid the “extra” \$1,000 to get the home closed.

Escrow Officer Elaine advised Buyer Bonnie to get a certified check for \$1,000 with Seller Sandra's name on it.

111

Due to the loan program, the lender did not allow Buyer Bonnie to receive the \$2,500 credit.

Additionally, due to an error by the title company, the buyer did not receive the 2.5% (\$3,000) toward closing costs and repairs.

112



Let's Add This Up

- \$1,000 check to the seller due to the misunderstanding concerning the duplicate amendments.
- \$2,500 credit towards the repairs that were not completed disallowed by the lender.
- \$3,000 credit towards closing costs (2.5%).
- That's \$6,500 in the buyer's favor which they did not receive!

113

What Went Wrong?

- There are at least four things that went wrong with this transaction.
- Can you name one?

2023 NAR Member Profile

Eighty-one percent of REALTORS® were White in 2022, up from 77% in 2021.

Hispanics/Latinos accounted for 10% of REALTORS®, followed by Black/African Americans and Asian/Pacific Islanders – both at 5%.

When compared to more experienced members, new REALTORS® tended to be more diverse. Among those who had two years or less of experience, 41% were racial minorities in 2022, an increase from 37% one year ago.

2023 Core Course

2023 NAR Member Profile

WASHINGTON, D.C. (May 11, 2023)— National Association of REALTORS® new-member applicants must now complete two hours of fair housing training and existing members must complete two hours of fair housing training every three years as a condition of REALTOR® membership, including one training option that is of no cost to members.

The three-year cycle coincides with NAR's existing Code of Ethics training requirement and begins in 2025.

2023 Core Course