



*Twilite  
Technology  
Center*

HIGH-SPEED INTERNET COMMUNICATION FROM A CLASSROOM SETTING  
THAT REACHES AROUND THE STATE, THE COUNTRY & THE WORLD

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**Agency**

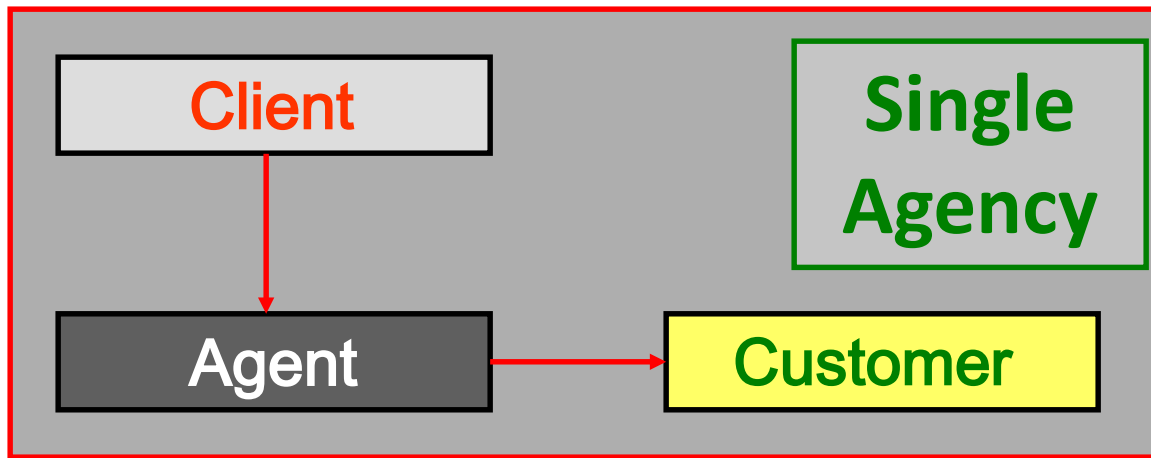
**Agency** – is created when **one party (the agent) is paid to act on behalf of a second party (the client or principal)**. The client has expectations that the agent will work for their best interests. Courts have agreed and a body of law known as the **law of agency** was created. This body of law places great responsibility on an agent in the relationship with the client. Basically the **agent is required to put the clients interest above the agent's and everyone else's, this is known as a fiduciary relationship**.

Agency is found in the legal profession (client attorney privileges) where an attorney or their law firm cannot represent anyone suing a present or past client. It applies to anyone (i.e., accountants or doctors), that an attorney or his law firm has a working relationship with. It applies to doctors (doctor patient relationship) where a doctor cannot talk about the medical condition of a patient without their permission even if they are no longer acting as that persons physician.

This agency applies to real estate professionals. But its different in that **a licensees' agency relationship with the seller applies only while a property is listed or with a buyer while a buyer's agency relationship exists. When a real estate licensee lists real property the owner becomes a client and the licensee becomes the agent creating a fiduciary relationship.**

A novel way to look at this is that after a listing is completed the owner and licensee get in a small plane, while flying it starts to crash with only one parachute. The agent must give the owner the parachute or tear up the listing and fight it out.



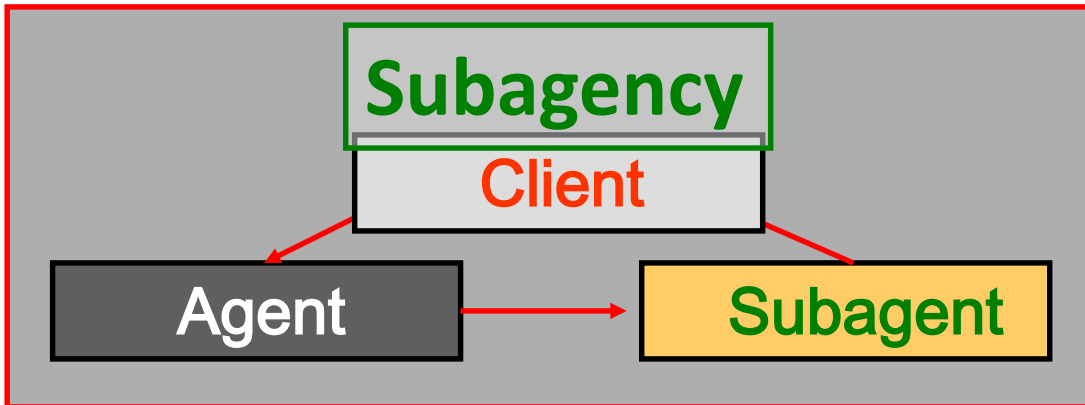


**Agency**

Fiduciary between the principal & agent

Principal A person who hires the agent

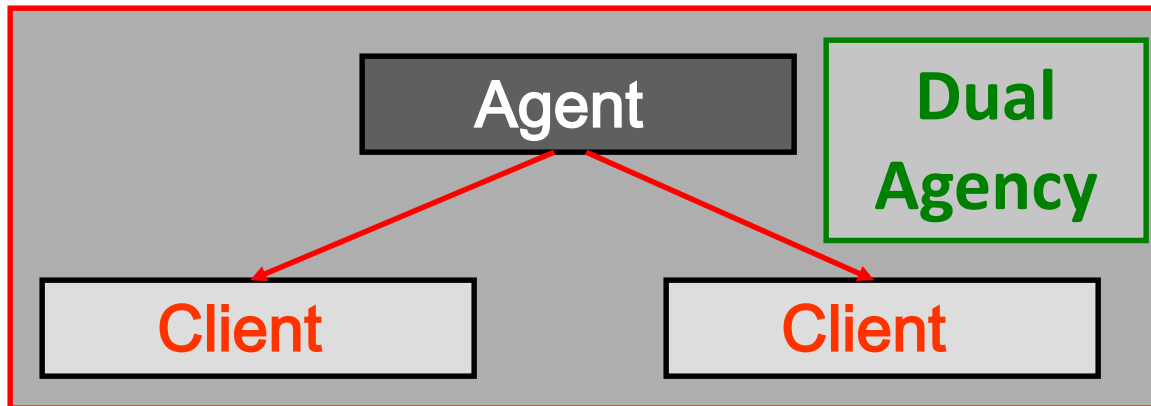
Client The principal



Agent A person authorized to act for another

Fiduciary Trust relationship between principal & agent

Customer 3<sup>rd</sup> party who is provided a service



Subagent An Agent of an Agent

Transactional Broker

**NON AGENT**

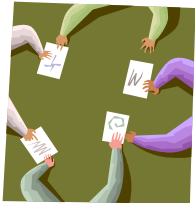
Listing Agreement

A personal service contract



## Types of Agency

- (1) **General Agent** – Has a broad range of powers – property manager
- (2) **Special Agent** – performs a specific act or business transaction. – listing agent
- (3) **Universal Agent** – Has full power of attorney to represent another - guardian.
- (4) **Designated Agent** – acts for a specific principal or client.



## Creation of an Agency Relationship

- (1) **Express Agency** – contract terms are stated and the intention is expressed either orally or in writing. A listing agreement creates an express agency.
- (2) **Implied Agency** – actions or conduct show that there is an agreement. A real estate licensee talking to buyer and letting the buyer tell the licensee personal financial information or by giving them advise about an offer.

# Types of Agencies

- (1) Single Agency – broker represents the seller or buyer but not both
- (2) Dual Agency – broker represents both buyer and seller with both parties written permission.

## Responsibilities Of an Agent (C.O.A.L.D.)

Care Exercise reasonable care and skill

Obedience Act in good faith - obey lawful orders

Accounting Keep track of funds

Loyalty Principal's interest above all others

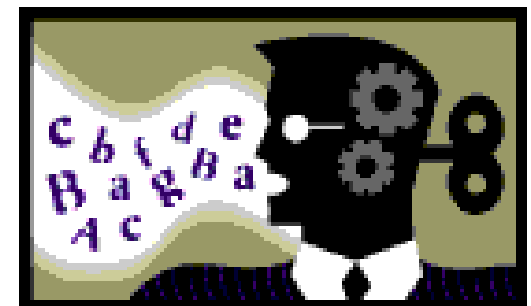
Disclosure Keep the principal informed of facts

An agent must deal fairly and honestly with all parties, regardless of whom they are representing.

## Ministerial Acts



Acts that a licensee may perform for a consumer that are informative in nature and do not rise to the level of active representation and does not create agency.



Puffing is exaggeration but not the exaggeration of a material fact. It is an opinion that does not rise to the level of misrepresentation. An example, “There is no better view than this in the city”





# Listing (Seller) Agency

When a listing is obtained, agency is created and the agent begins marketing the property. The agent has agreed to try to find a ready, willing and able buyer on terms the seller is willing to accept. The seller has agreed to pay the agent if a buyer is obtained.



## Types Of Seller Listings – Seller Agency

BRING BUYER \$



**For Sale  
By Owner**

Open Listing  
(Common In Commercial  
Real Estate)

Agent is paid if they bring  
the buyer

OWNER FINDS BUYER \$X



**For Sale  
By Owner**

**Cees  
Realty**

\$  
\$

Exclusive-Agency  
Listing

Agent is paid unless the  
seller finds the buyer

PROPERTY SELLS



**Cees  
Realty**

\$  
\$

Exclusive-Right  
to-Sell Listing

Agent is paid if the property  
sells regardless of who finds  
the buyer.

# Buyer Agency

When a real estate broker enters into a contract with a buyer to represent them, a buyer agency relationship is established. The buyer becomes the client and the seller becomes the customer unless the agent has a dual agency.

## Types of Buyer Agency Agreements

**AGENT FINDS  
PROPERTY**

\$



**BUYER FINDS  
PROPERTY**



**BUYER BUYS**



OPEN BUYER AGENCY

BUYER FINDS PROPERTY

BUYER BUYS A PROPERTY

Open Listing  
Find Property For  
Buyer

Agent is paid if they find property that the buyer purchases

Exclusive-Agency \$  
Buyer Agency \$

Agent is paid as long as the property is not found by the buyer.

\$ Exclusive Buyer \$  
\$ Agency \$

Agent is paid if the buyer purchases a property regardless of how the property is found.

# Agency

## Express Agency

The Principal and Agent enter into a contract for the Agent to act on behalf of the Client.

## Implied Agency

Actions cause the agency to occur by implication

## Terminating Agency

Death or Incapacity

Destruction or Condemnation

Expiration

Mutual Agreement

Breach

By Operation of Law Completion

**Seller  
Agency**

**Buyer  
Agency**

**Owner – Seller  
Client - Principal**

**Buyer  
Client - Principal**

**Broker A  
Agent**

**Broker B  
Agent**

**Salesperson  
Agent  
Subagent**

**Salesperson  
Agent  
Subagent**





# Property Management

The property manager is a general agent (they can do more than one thing) and have a fiduciary relationship with the owner of the property and have the same agency responsibilities.

## Responsibilities Of an Agent (**COALD**)



Care & Skill Act with care and skill

Obedience Act in good faith - obey lawful orders

Accounting Keep track of funds

Loyalty Principal's interest above all others

Disclosure Keep the principal informed of facts



