

# Transaction Brokerage

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4 Hour Course Outline

## COURSE DESCRIPTION:

This course provides attendees with a clear understanding of dramatic changes in stable brokerage relationships of agency and subagency for the seller and a never-mentioned “no agency” for buyers. This worked well for the creation and maintenance of Board owned MLS systems until the legal profession and consumer advocates “let the cat out of the bag” that in cooperative transactions there were two agents for the seller and no agent for the buyer. This for the first time to buyer’s agency and dual agency and a host of disclosures to cover the backside of brokers. Out of the confusion transaction brokerage came into being as a non-agency alternative to the misrepresentations and legal liabilities associated with use of agency in general brokerage activity.

## TEACHING TECHNIQUES:

L=Lecture, PP=PowerPoint slides, V=Video clips and GE=group exercises.

## LL LEARNING OBJECTIVES

- 1 Attendees will define and differentiate three brokerage relationships in New Mexico
- 1 Attendees will identify section of NM RE License Law dealing with Brokerage Relationships
- 1 Attendees will understand and explain to others the significant differences between agency and transaction brokerage and when each is most appropriate and why
- 2 Attendees will fill in Cover Page disclosures accurately and explain to class what was done
- 1 Attendees will understand the nature of Broker Duties and how these are not “fiduciary duties”
- 2 Attendees will identify which RANM forms apply to brokerage relationships and explain their benefit and inadequacies, if any

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General Introduction: Instructor, attendees and course objectives	10 minutes
I. Background of uses of agency non-agency relationships in real estate	30 minutes
II. Agency and Legal Liability for Real Estate brokerage	30 minutes
III. Various Disclosure Responses and Obligations	30 minutes
IV. The Legal Concept of “Professional Duty” and NMREC Part 19	30 minutes
V. Realtor® Association of New Mexico (RANM) Forms	30 minutes
IV. You Be the Judge: Court Cases and Class Breakout	60 minutes
V. Wrap-up Class Discussion: Explaining Transaction Brokerage to Consumers	20 minutes

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I. Background of uses of agency non-agency relationships in real estate	30 minutes
A. Agency as promise of professionalism for one's client	
B. Agency as means of selling the MLS concept to competitors	
C. Agency after buyer's found out they did NOT have agency	
II. Agency and Legal Liability for Real Estate brokerage	30 minutes
A. Taking <i>fiduciary duty</i> seriously	
B. Struggle to extend agency relationships to buyers	
C. Need for avoidance of "undisclosed dual agency"	
D. NAR 2013 Legal Scan for catalogue of agency law cases	
E. NM Supreme Court Case: <i>Moser v Bertram</i>	
III. Various Disclosure Responses and Obligations	30 minutes
A. NMREC Part 18 and Part 19 Disclosure Requirements	
B. Sampler of what other states require	
C. RANM Form "Cover Page Two" Review	
IV. The Legal Concept of "Professional Duty" and NMREC Part 19	30 minutes
A. Requirements Based on Licensure—not Brokerage Relationships	
B. 61-29-12(A) 1-12	
C. NMREC Rules Part 19	
D. Professional Duty does not include "loyalty" and "obedience"	
V. Realtor® Association of New Mexico (RANM) Forms	30 minutes
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