

## Working Without a Safety Net

By: Earl L. Martin, Jr.

*Alabama's Real Estate Doctor*

Imagine this. You are a licensee on floor duty at your brokerage office. The telephone rings. The caller has been on the Internet and noticed a home listed with your company. She wants to view it right away. You agree to meet her and her husband at the address mentioned ASAP.

You then call the listing agent to let them know you will be showing the house. When you meet you are careful to take a few moments to tell your customers about RECAD and ask them to sign the required disclosure forms, including your company policy concerning the types of agency offered by your brokerage.

They sign the RECAD form without hesitation. You give them a copy of everything they've signed. So far you are doing okay. You use your lockbox key to enter the house.

After walking through the home, climbing up in the attic and examining the garage, your customers comment, "This is a very nice home. It has everything we've been looking for." You agree that the home is really very nice and then ask if they might like to make an offer. As you do you think to yourself, "This is going almost too smoothly."

After a moment's hesitation the customers look at each other and say, "No, not right now. We love this house, but this is a big decision and we want to think about it overnight. We'll get back to you in the morning."

You don't hear from them the next morning. Nor do they call in the afternoon. So you call them. The wife answers the phone. You ask her if they have made a decision about the house they saw yesterday... pause, ah... what do you think her response will be?

You guessed it. They've already made an offer on the house you showed them, but another agent who had shown them other houses wrote the contract and presented the offer! (Insert your favorite expletive here).

Before you even begin to cool down your mind is racing 100 miles an hour. You think, "Wait a minute. They CAN'T do this to me! They are MY CLIENTS!" Oh yes, they can. And no, they were not and they are not. Alabama law couldn't be any clearer. "An agency relationship shall not be assumed, implied or created without a written bi-lateral agreement establishing the terms of the agency relationship."

That statement applies to buyer agency as well as seller agency. You can find it in AL Code, Section 37-24-82 (b). An exclusive buyer agency agreement changes a customer into a client. It spells out the agent's duties and the client's responsibilities. Both parties will know what to expect. And a buyer agency agreement should always include provisions for compensation to the agent for services rendered.

Very few agents would agree to market a home for sale without a written listing agreement. But all across Alabama, licensees are busy showing prospective buyers house after house with no buyer commitment at all. No protection from fickle customers. No protection from possible lawsuits. No agency protection. Essentially, they're working without a safety net. Think about it.

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