

THE ETHICS OF REAL ESTATE

Some may laugh, some may comment, what ethics? Ambrose Bierce, a noted 19th century pundit, observed that "all professions are a conspiracy against the laymen." Possibly he quipped this to his good friend, Brian G. Hughes, the noted turn-of-the-last century real estate dealer/banker. However, if your daily experiences are examined, that comment rings true for any profession whose code of conduct is governed by "situational ethics."

The real estate brokerage industry in most every State, and certainly New York, is examined, licensed, and overseen by one Agency or another. Licenses are wonderful things which provide the grantee with the right to a livelihood, while providing the grantor with the ultimate recourse of taking that livelihood away. A change of career can be the result of, by way of example; the direct canvassing of property owners in a posted "do not contact neighborhood", failure to observe fair housing legislation, or having failed to tread carefully through the minefield called "duel agency."

Every profession appears to have a slogan which sums up its ethical responsibilities to the public. The medical profession has "Do no harm". For the real estate brokerage community I believe it should be "Full disclosure". The brokers at Greiner-Maltz know that this is one of the two "go to" principles whenever a brokerage problem arises.

EXAMPLE: Recently our office initiated a sale which was days away from closing when our broker, representing the purchaser,



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learned that the property had been designated as an E-ZONE, which raised the environmental standards for the site, possibly making the transaction un-economic to acquire...

EXAMPLE: In an intensively competitive market, one of our brokers represented the owner of a "trophy" property. Our broad based marketing campaign resulted in several qualifying offers, the highest of which was procured by the broker representing the owner. This broker's responsibility was to review the qualifications of each buyer, with the understanding that the purchaser's ability to close, in the seller's mind, was equally important as the relative price achieved. Were the owner to accept this broker's customer, the net commission would be double to that broker, rather than accepting an outside broker's offer. Was the broker expected to report to the owner that his customer's financials were the weakest amongst all the bidders?..

EXAMPLE: A broker and his customer

had been golfing buddies for years, so it was natural that when the customer had a requirement to purchase a 50,000 sq. ft. warehouse, he asked our broker to show him space. Soon a number of inspection appointments resulted in a heated negotiation for an openly listed property. The customer revealed to the broker that he would pay 10% over the asking price if forced to. Who receives the benefit?....

EXAMPLE: As the managing agent for a prime commercial building for over a decade, one of our brokers negotiated a long-term net lease of the property which resulted in a significant six-figure commission. This fee, allowed for in the management agreement, in fact represented most of the broker's compensation for years of steadfast service. However, the invoice sent to the partners was approved by only 3 out of 4 of them. Does he write himself the check anyway?...

A careful reading of these examples will leave the reader looking for an additional principal to pair up with "full disclosure" to resolve the issues presented. This missing principal is "Full fidelity is owed to the client by the broker." These 2 principles, having been applied year-in and year-out in thousands of consummated as well as, more importantly, un-consummated transactions by our office, have never failed the licensing authority's as well as our client's scrutiny.

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