



Applied Practice Course Component Three

Residential Trading Services

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OVERVIEW

Disclaimer

The materials in this course and the class discussions are for educational purposes and are general in nature. The content and the discussions do not constitute legal or other professional advice. Licensees are responsible for exercising their own professional judgement in applying information to particular situations. Be mindful of confidentiality requirements and keep any discussions generic. Contact British Columbia Financial Services Authority (BCFSA) Practice Standards Advisors for further guidance.

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Introduction

Welcome to Component Three of the Residential Trading Services Applied Practice Course. As a new licensee in your brokerage, Component Three offers you the opportunity to bring to life the concepts you have been studying in Components One and Two of this course through its practical field assignments. There are six practical field assignments and one reflection assignment to complete while working in your brokerage. Accompanying each assignment will be a series of reflective questions you answer and submit online.

You can complete the practical field assignments in any order that works for you. We recommend starting a Word document (or other text editing program) to answer the reflective questions and submit the file online through Blackboard.

We highly recommend working with your Managing Broker or an experienced real estate licensee at your brokerage to complete your reflective questions for each practical field assignment. If any of the practical field assignments are an activity you do not have a chance to complete during the duration of Component Three, we ask you to interview or shadow a broker or senior licensee within your brokerage to experience that assignment topic and then complete the reflective questions. You will also find a checklist in the additional resources section, that will assist your Managing Broker or an experienced real estate licensee mentor in monitoring your comprehension and completion of the assignments. Please provide a copy of the Managing Broker Checklist to your managing broker or senior licensee.

Each assignment has a resource section that will assist you in completing your practical field assignments.

Make sure you check in with your Managing Broker for any policies or procedures documented in your office specific to your brokerage.

The peer-to-peer discussion forums found on Blackboard are a great place to pose questions to your fellow colleagues. They might also be able to assist you with some of their ideas and insights as they finish their practical field assignments.

There is no instructor present in this component for the course. If you have questions about the practical field assignments or how those concepts are relevant in your brokerage, we encourage you to make an appointment and speak to your Managing Broker. If you have a technical or scheduling questions about Component Three, please contact BCFSa at education@bcfsa.ca.

One last note, for your final reflective assignment, an instructor for Component Four will be reviewing you and your colleagues' responses. Your instructor will use these responses to customize your final interactive day and concentrate on the key aspects of agency, disclosure, conflicts, contracts and anti-money laundering that might still require some further review and reflection. You may also use your self-reflection to identify areas where you still wish to improve your practice; either by working with your managing broker, experienced real estate licensee at your brokerage or by taking further real estate education.

Assignment One: Listing a Property for Sale

OVERVIEW

In this assignment, you will be required to prepare a listing presentation for a potential seller client. You must work with your managing broker, or an experienced licensee at your brokerage who can oversee your work and assist you where necessary.

This assignment is divided into three different steps. The first step asks you to prepare for a listing appointment. The second step has you conduct a listing appointment and in the third step, you will accurately describe the property listed to licensees and potential buyers. This assignment has you working with a seller.

At the end of each step, you will answer a series of reflection questions. You will not be given a grade for your reflection questions, but they will be reviewed by your Component Four instructor to verify your completion and to assist in tailoring the last component of this course.

STEP ONE: PREPARING FOR A LISTING APPOINTMENT

In preparing for a listing presentation, ensure that you have:

Supporting Resources

- BCFSAs Listing Checklist;
- New Home Registry Website; and
- Property Disclosure Statement;
 - PDS (Residential Properties); and
 - PDS (Strata Properties).



Instructions

Prepare for a listing appointment by using the following checklist:

- Research the property by consulting with municipality/Regional District.
- Review neighbourhood statistics.
- Prepare a current Comparative Market Analysis.
- Obtain a current copy of the property title.
- Review the title search for the property including legal ownership of the property and charges.
- Determine zoning of the property and other aspects of the property.
- Obtain documentation for the property such as strata minutes, mobile homes registration, farmland/acreage.
- If the property is new (or property of less than 10 years old), search the new home registry website. Ask the seller to provide a copy of the warranty or owner builder declaration notice.
- Prepare a presentation for potential clients. In addition to the material researched on the property, including:
 - Disclosure of Representation in Trading Services form;
 - Privacy Notice and Consent form;
 - Listing contract – consult with your Managing Broker on Schedule A - listing the services of the brokerage;
 - Data Input form if needed for a property database upload;
 - PDS;
 - FINTRAC form; and
 - Other unique contributions to the presentation.
- Prepare a response to the question “Why would I list with you and not another licensee?”
- Prepare a description of your business model, the duties you will owe to the consumer and anticipated remuneration you will earn.
- Determine the style of presentation you will use (iPad, hard copy, etc.).



Reflection Questions

1. Summarize how you responded to the question “Why would I work with you?” In your summary, identify at least two characteristics that differentiate you from other licensees.
2. Of all the resources provided to you through this assignment and by your Managing Broker, what are the key resources that you will continue to use and integrate into your practice as a licensee? Explain why you chose these resources.
3. How did you plan to present to the seller? What, if any, documentation do you plan on leaving with the seller after the presentation?
4. Did you practice your presentation on your broker or another more experienced licensee and get feedback? If so, what was the feedback and how did you modify your presentation based on the advice given?

STEP TWO: CONDUCTING A LISTING PRESENTATION FOR A PROPERTY

Now that your presentation is ready for a potential new client, it is time to meet with the seller. During your presentation you will discuss your role as an agent for the seller, the duties required of you, and the services you will be providing.

Supporting Resources

- Disclosure of Representation in Trading Services form;
- Privacy Notice and Consent form;
- MLS® Contract;
- Property Disclosure Statement;
 - PDS (Residential Properties); and
 - PDS (Strata Properties).
- Regulatory Information and Guidelines on Conflicts of Interest; and
- Regulatory information and guidelines on agency;
 - For additional resources, speak to your managing broker; and
 - When appropriate, you may want to practice your listing presentation with your Managing Broker and/or another trusted licensee for feedback.

Instructions

Conduct a listing presentation by using the following checklist:

- Discuss agency and the duties owed to clients.
- Review the Disclosure of Representation in Trading Services form.
- Ensure that the consumer understands the Home Buyer Recission Period and where they can get further information
- Review the FINTRAC form and ensure the seller understands its purpose and what the information is used for.
- Perform a LOTR search and discuss your AML obligations with the clients.
- Explain recent sales history in the area using the CMA you created.
- Present information about your brokerage, yourself, and the property.
- Review the listing contract and ensure the seller understands all the terms.
- Discuss with the seller any potential conflicts that may arise and establish a process on how the seller wishes to handle any conflicts should they arise.
- Discuss patent and latent material defects and the duty to disclose them before an offer is accepted.
- Address any questions as the seller completes the Property Disclosure Statement.
- Measure and/or verify the measurement of the property accurately.
- Advise the seller on the offer process and have the seller decide how they wish to handle offers and advise them that you will provide a Disclosure to Seller of Expected Remuneration for each offer that is received.
- Devise a communication plan with the seller to keep them informed.



Reflection Questions

1. In reviewing the Disclosure of Representation in Trading Services form were there any questions that the client had? If so, what were they and how did you address them?
2. Did you use a standard form listing contract, or one that was created by your brokerage? Did the seller have any questions about the contract that you were unable to answer? If so, what were they and were you able to get the information to answer them?
3. How did you address the topic of possible conflicts of interest that can occur with your client?
4. How did the conversation go about how you will meet your AML obligations?
5. What patent defects did you notice upon review of the property? Were there any material latent defects that needed to be disclosed? If so, how did you document the disclosure?
6. Who from your brokerage attended the listing presentation with you? In what capacity were they able to assist you?

STEP THREE: COMPLETE ALL NECESSARY DOCUMENTATION TO SECURE AND LIST A PROPERTY FOR SALE

In the final step of this assignment, you will complete all necessary documentation to secure and list a property for sale.

Supporting Resources

- Disclosure of Representation in Trading Services form;
- Privacy Notice and Consent form;
- MLS® Contract;
- Property Disclosure Statement;
 - PDS (Residential Properties); and
 - PDS (Strata Properties).
- FINTRAC form;
- Title search;
- LOTR search results; and
- Corporate search results (if your client is a company).

Instructions

It is now time to complete the documentation needed to create the agency relationship and list the property for sale. To complete the final section of Assignment 1, you will:

- Verify information obtained at the listing appointment to accurately list the property on MLS®.
 - This includes measuring or verifying the measurement of the property, reviewing title to ensure the seller is person you are entering into the agency relationship with, and ensuring you have the correct legal description and PID for the property.
- Ensure that all fields in the listing contract are completed fully.
- Review the PDS that the seller has filled out.
- Ensure that all required documentation has been received.
- Ensure that you have all the required information to complete your AML/FINTRAC obligations.
- Ensure the client has received copies of all executed forms.
- Ensure that you promptly deliver copies of all documents required to be retained by the brokerage, to the brokerage.



Reflection Questions

1. What documents did you provide to your brokerage after your listing presentation?
2. When and how did you deliver the executed copies of the documents to the seller?
3. How did you verify the information about the property that was provided to you by the seller (e.g. age of the property, size of the property)?
4. What do you think went well during this listing process, and what do you think you would want to change for your next listing opportunity?

Assignment Two: Establishing Agency and Providing Trading Services to a Buyer

OVERVIEW

This assignment, Establishing Agency and Providing Trading Services to a Buyer, requires you to work with a buyer to establish an agency relationship. As you progress through this assignment, keep track of the documents you use, the questions you pose, and any other information you can use in future buyer presentations.

At the end of the assignment, you will respond to a series of reflection questions.

In this assignment you will prepare a presentation to a potential buyer with a goal of establishing an agency relationship with the buyer. You will be required to prepare for the presentation by collecting the appropriate forms necessary to create an agency relationship including Disclosure of Representation in Trading Services form and Buyer's Agency Exclusive Contract, etc. You will also be required to explain your FINTRAC obligations and gather the required information to retain in the brokerage file.

In addition, you will also be required to gather information about various neighbourhoods, property prices, and other statistics. You will also assess your buyer's ability to buy and appropriate financial background, ascertain their needs, and prepare a response to any possible questions that may be asked of you.



STEP ONE: PREPARING FOR A BUYER AGENCY APPOINTMENT

Supporting Resources

- Forms;
 - Disclosure of Representation in Trading Services form;
 - Privacy Notice and Consent form;
 - Buyer's Agency Exclusive Contract; and
 - Contract of Purchase and Sale.
- Property Disclosure Statement; and
 - PDS (Residential Properties);
 - PDS (Strata Properties);
 - Regulatory information and guidelines on agency; and
 - Regulatory information and guidelines on conflicts of interest.
- When appropriate, you should practise the buyer's presentation with your managing broker and/or other trusted licensee seeking feedback.

Instructions

Prepare a Buyer's presentation by using the following checklist:

- Prepare a presentation for potential clients. In addition to the material researched on the property, include:
 - Disclosure of Representation in Trading Services form;
 - Privacy Notice and Consent form;
 - Buyer's Agency Exclusive Contract (if using one); and
 - Contract of Purchase and Sale.
- Prepare a list of questions to ascertain a buyer's needs and wants.
- Prepare for a discussion about your AML obligations.
- Prepare for a discussion on the Home Buyer Recission Period.
- Prepare a response to the question "Why would I work with you?"
- Prepare information about your brokerage and the services it provides.
- Research market and neighbourhood statistics on sold, expired and active listings.
- Research prospective neighbourhoods and communities to inform the buyer (e.g. local schools, upcoming development projects etc.).
- Prepare a flowchart that informs the buyer of the buying process and associated costs.
- Prepare a description of your business model, the duties you will owe to the consumer and anticipated remuneration you will earn.
- Determine the style of your presentation (iPad, hard copy, etc.).

For further information please refer to the Buyer's Guide:

https://www.bcfsa.ca/public-resources/real-estate/buying-home?fragment_redirects=1



Reflection Questions

1. Summarize how you responded to the question “Why would I work with you?” In your summary, identify at least two characteristics that differentiate you from other licensees.
2. Of all the resources provided to you through this assignment and by your Managing Broker, what are the key resources that you will continue to use and integrate into your practice as a licensee? Explain why you chose these resources.
3. How did you plan to present to the buyer? What, if any, documentation do you plan on leaving with the buyer after the presentation?
4. Did you practice your presentation on your broker or another more experienced licensee and get feedback? If so, what was the feedback and how did you modify your presentation based on the advice given?

STEP TWO: CONDUCTING A BUYER AGENCY PRESENTATION

Now that your presentation is ready for a potential new client, it is time to meet with the buyer. During your presentation you will discuss your role as an agent for the buyer, the duties required of you, and the services you will be providing.

Supporting Resources

- Forms;
 - Disclosure of Representation in Trading Services form;
 - Privacy Notice and Consent form;
 - Buyer's Agency Exclusive Contract; and
 - Contract of Purchase and Sale;
- Property Disclosure Statement; and
 - PDS (Residential Properties); and
 - PDS (Strata Properties).
- When appropriate, you should practise your buyer's presentation before managing broker and/or other trusted licensee seeking feedback.

Instructions

When you meet with a potential client you will:

- Discuss agency and the duties owed to clients.
- Review the Disclosure of Representation in Trading Services form.
- Ensure that the consumer understands the Home Buyer Recission Period and where they can get further information.
- Discuss your AML obligations and review the FINTRAC form and ensure the seller understands it's purpose and what the information can be used for.
- Present information about your brokerage, and yourself.
- Discuss using a Buyer Agency Agreement and the benefits it offers, ensuring the buyer understands all the terms.
- Discuss with the buyer any potential conflicts that may arise and establish a process on how the seller wishes to handle any conflicts should they arise.
- Discuss patent and latent material defects and the duty of the seller and their licensee to disclose them before an offer is accepted.
- Determine the buyer's needs and wants in a property.
- Discuss "deal breakers" for purchasing a property.
- Discuss financing and the buyer's ability to buy.
- Discuss the pre-approval process and any other pertinent financial information.
- Discuss costs associated with purchasing a property.
- Discuss your business model and remuneration.
- Explain the documentation used in the purchase of a property (CPS).
- Prepare a response to the question "Why would I work with you and not another licensee?"
- Devise a communication plan with the buyer to keep them informed.



Reflection Questions

1. How did the Disclosure of Representation in Trading Services form assist you in explaining your duties to a client? What questions did your client have in respect to the form? Did you receive any hesitation from the buyer to sign? If so, explain.
2. If you presented the Buyer's Agency Exclusive Contract, which areas were the buyers most interested in discussing? What types of questions did the buyers ask? Were they comfortable signing the document? If not, what was their objection?
3. How did you ascertain the buyer's needs, wants and deal breakers?
Develop a series of questions that will help you ascertain a buyer's needs, wants and deal breakers. Share your list with your Managing Broker and/or another experienced licensee to provide you with feedback on your list of questions. Submit a detailed list of questions (minimum 10 questions). Which questions will you use in future? Which ones will you alter and why?
4. Did you inquire as to whether the buyer had been pre-approved? When you discussed the costs associated with purchasing a property, did you reference the CPS information sheet? If not, how did you detail the costs for the buyer?
5. How did you explain your AML obligations and the FINTRAC form and what questions did the buyer have for you? Were there any objections or concerns raised and how did you respond to them?

STEP THREE: COMPLETE ALL NECESSARY DOCUMENTATION TO ENTER INTO AN AGENCY RELATIONSHIP WITH A BUYER

In the final step of this assignment, you will complete all necessary documentation to enter into an agency relationship with a buyer.

Supporting Resources

- Forms;
 - Disclosure of Representation in Trading Services form;
 - Privacy Notice and Consent form; and
 - Buyer's Agency Exclusive Contract.
- LOTR search results;
- Corporate search results (if your buyer is a company);
- Regulatory Information and Guidelines on conflicts of interest; and
- When appropriate, you should practise the buyer's presentation beforehand and seek feedback from your managing broker and/or other trusted real estate professional.

Instructions

It is now time to complete the documentation needed to create the agency relationship. To complete the final section of assignment 2, ensure that:

- All fields in the buyer agency agreement are completed fully.
- All required documentation has been received.
- You have all the required information to fulfill your FINTRAC obligations.
- The client has received copies all executed forms.
- You promptly deliver copies of all documents required to be retained by the brokerage, to the brokerage.



Reflection Questions

1. When and how did you deliver the executed copies of the documents to the buyer?
2. What do you think went well during this process, and what do you think you would want to change the next time you meet with a potential buyer client?

Assignment Three: Holding an Open House – Your Agency Responsibilities

OVERVIEW

This assignment, Holding an Open House, requires you to work with a seller to set up and host an open house for the public. This can be an open house on your own listing or a listing of another licensee at your brokerage. As you progress through this assignment, keep track of what went well, and where you could improve.

At the end of the assignment, you will respond to a series of reflection questions.

In this assignment you will ensure that during the open house all your duties to both clients and unrepresented parties are understood and performed, including your obligations under an agency relationship. In addition, you will demonstrate your knowledge of the property you are representing.

STEP ONE: PREPARING FOR AN OPEN HOUSE

Supporting Resources

- Regulatory information and guidelines on agency;
- MLS(r) listing sheets for distribution; and
- BCFS Knowledge Base.



Instructions

Prepare for an open house by using the following checklist:

- Know the property by doing a title search and ensure PDS is completed (if the seller chooses), view the property and make notes, know the zoning requirements, and ensure you are aware if all construction work was done with permits.
- Ensure that you have discussed with the seller what their expectations are including:
 - Areas of the home that are off limits such as certain closets or rooms;
 - If the seller prefers all guests to remove their shoes before entering; and
 - Any sanitizing, mask and glove wearing requirements that may be appropriate.
- Create an accurate feature sheet for the property ensuring that you do not make any false or misleading statements.
- Ensure you have copies of the Disclosure of Representation in Trading Services and Disclosure of Risks to Unrepresented Parties in case they are required.
- Discuss with the seller, prior to the open house, the services that you can provide to an unrepresented party without impacting your agency relationship to the seller.
- If you are holding an open house for another licensee in your brokerage, discuss in advance with the listing agent your role during the open house:
 - You may not be representing the seller and therefore are not acting in their interests, but may be able to represent a buyer;
 - You become a designated agent for the seller, and therefore must act solely in their best interest; and
 - Ensure the seller is aware, understands, and agrees to the role you will be taking.
- If possible, prepare to arrive at the property early to ensure that all lights are on, and the property is ready to be viewed.



Reflection Questions

1. What marketing materials did you plan to use at the open house? Why?
2. Did the seller have any special requests, such as limiting access to certain parts of the house? If so, how did you plan to accommodate those requests?

STEP TWO: HOLDING AN OPEN HOUSE

Supporting Resources

- BCFSAs Knowledge Base;
- Fact sheet on the property;
- Regulatory information and guidelines on agency; and
- Regulatory information and guidelines on conflicts of interest.

Instructions

During the open house:

- If you are representing the seller, describe your role as a designated agent of the seller to any prospective buyers.
- If you are not representing the seller, outline the services you are able to provide to an unrepresented buyer who has come to tour the property, and make sure that the seller understands that there is no one at their open house representing them.
- Provide consumers with general fact-based information on the home being careful not to create an implied agency relationship if you are representing the seller.
- Review a Disclosure of Representation in Trading Services form with a consumer attending the open house.
- Privacy Notice and Consent form, when appropriate, and as a licensee complete and sign it. If the consumer is unrepresented, review the Disclosure of Risks to Unrepresented Parties form, and as a licensee complete and sign it.



Reflection Questions

1. If you were not representing the seller, did you create an agency relationship with any buyers during the open house? If so, what forms did you provide to them and how did you explain the services you would be able to provide to them.
2. If you were representing the seller, explain how you avoided creating an implied agency relationship when buyers questioned you about the property.
3. What conversations did you have with potential buyers about your duties of agency and what prompted the conversation? For example, did you have the conversation as a result of a potential buyer providing you personal or confidential information about themselves, or did you have the conversation before you got any information?
4. Explain what you did with any disclosure forms you had signed during the open house.

Assignment Four: Researching Properties

OVERVIEW

To develop your market knowledge of the various types of properties, research three different types of properties using several resources including allied professionals (e.g., inspectors, contractors, civic staff, architects, experts on specific property types), online databases and traditional resources (zoning information, structural information, federal/provincial/local plans). Prepare reports for each of the three property types.

Instructions

Review the material found in the *Real Estate Trading Services Licensing Course* manual which explains legal ownership of property.

Research the three basic forms of property ownership common in BC - fee simple, leasehold and cooperatives. Differentiate among the three types.

Select three listings from <https://www.realtor.ca/>, listings at your brokerage, or through your boards MLS® program, and select three listings.

Determine:

- The legal ownership;
- The property boundaries; and
- Terms used to market the property.

Referencing one of your listings, research what is needed to:

- Identify legal property ownership and property boundaries;
- Determine required documentation to either list/buy the property;
- Further determine how best to market the property for a client; and
- Identify three key resources that you accessed while conducting your due diligence during a sale or purchase of this property (e.g., property manager, municipality, LTSA, etc.).





Reflection Questions

1. Name the resources (**websites, regulatory documents, industry publications etc.**) which you consulted while conducting your due diligence of the three different types of legal property ownership. Which of the resources was most beneficial to you and why?
2. How were you able to verify that the advertised **legal descriptions** of the property were accurate? Explain why it is important to understand legal ownership of a property.
3. Interview **three people** who are considered experts in a certain market e.g., someone who specializes in commercial properties, new construction, strata properties, etc. Who did you interview (not personal names but rather their title e.g., Managing Broker) and what were the three most helpful pieces of information that they provided you with? Use the following table or a similar graphic organizer to record your responses.

Title	Area of Specialization	Three Most Helpful Pieces of Information
Residential licensee	New construction	<ul style="list-style-type: none"> • Be familiar with HPO requirements • Know the 2-5-10 warranty limitations • Understand what it means to be an owner-builder

Assignment Five: Drafting an Enforceable Contract for a Buyer Client

OVERVIEW

In Drafting an Enforceable Contract for a buyer client, you will draft a contract of purchase and sale under the supervision of your managing broker or an experienced licensee at your brokerage.

At the end of the assignment, you will respond to a series of reflection questions.

In this assignment you must ensure the contract is drafted to match the intentions of your client. You may choose to use pre-drafted clauses that can be found on BCFSAs website or in Webforms(r). If you are drafting custom clauses, they should be vetted by your managing broker and possibly a lawyer to ensure they are legally enforceable.

DRAFTING THE CONTRACT

Supporting Resources

- Disclosure of Representation in Trading Services form;
- BCFSAs Knowledge Base;
- Overview of the CPS;
- BCFSAs Clause index;
- WebForms(r);
- Property Disclosure Statement;
 - PDS (Residential Properties); and
 - PDS (Strata Properties).
- Contract of Purchase and Sale;
- 57.1 Disclosure Form (if you are not using the Contract of Purchase and Sale); and
- Regulatory information and guidelines on deposits.



Instructions

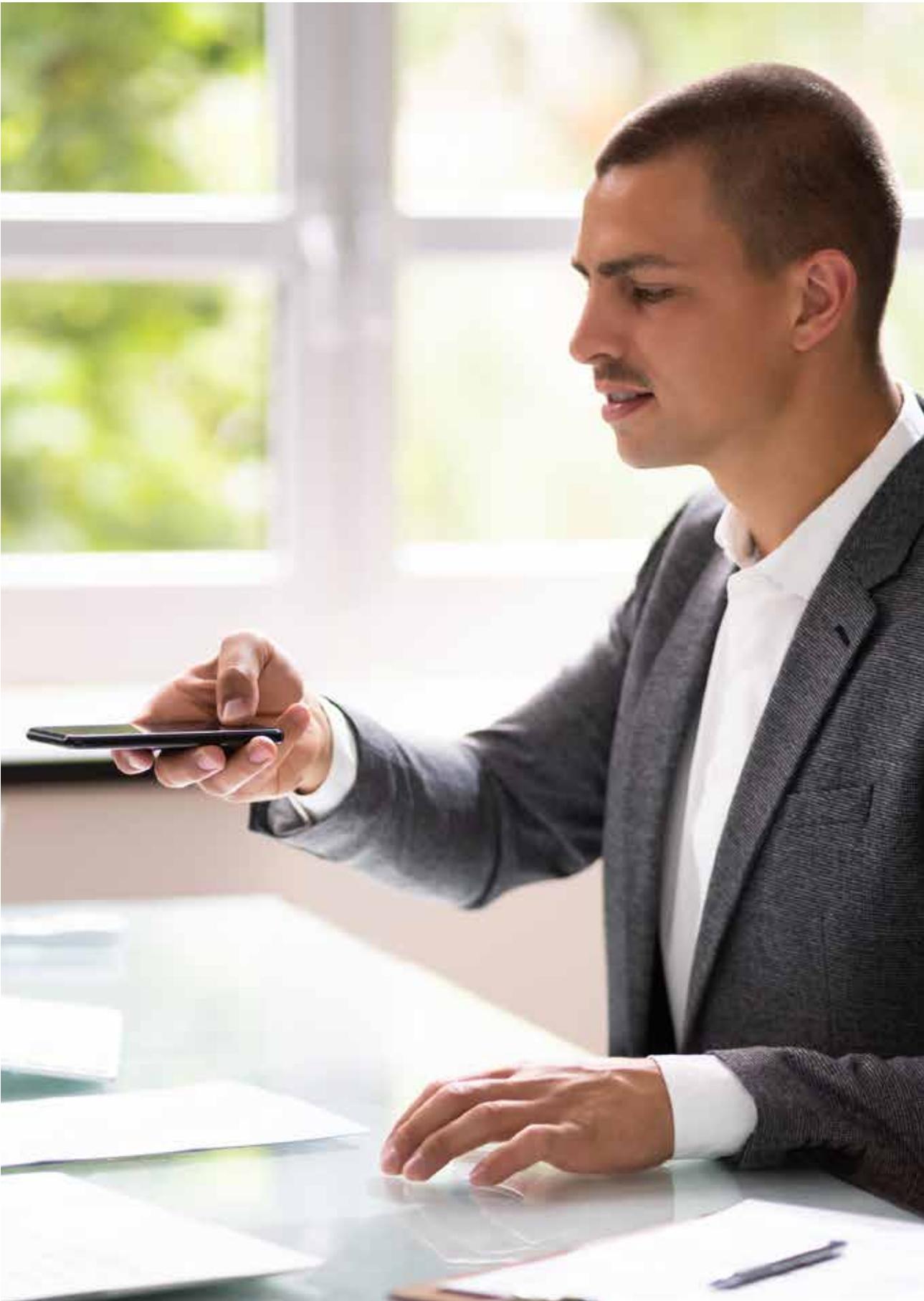
Draft a contract of purchase and sale by using the following checklist:

- Outline what documents must be included in a contract of purchase and sale.
- Review the title to the property to ensure the offer has the correct seller's name, legal description and PID.
- Add in AML obligations?
- Ensure your buyer client understands all the charges and encumbrances that appear on the title to the property and how those may affect them once they take possession of it.
- Provide the buyer with the Home Buyer Recission Period disclosure and discuss the implications (either by way of the Contract of Purchase and Sale or the 57.1 disclosure form.)
- Ensure that you do not provide legal advice to your buyer client and advise them to get professional advice when necessary.
- Advise the buyer on price based on a market analysis of the property.
- Review conditions/terms, and completion dates.
- Discuss appropriate conditions/subject clauses that your client may wish to include in the offer such as a:
 - financing clause;
 - home inspection clause; and
 - subject to sale clause.
- Ensure all the contract terms and subjects are clearly drafted and represent the intent of your client.
- Review the property disclosure statement with your client if one has been provided by the seller.
- Present comparables to the potential buyer to help determine an offer price.
- Discuss options for where the deposit may be held and the benefits of each option.
- Review the contract with your client to ensure they understand all the terms.
- Discuss timing of the offer presentation.
- Discuss how offers and counter offers work and what happens in multiple offer situations.
- Ask your managing broker to review your contract before submitting it to a seller or their real estate professional.



Reflection Questions

1. On a scale of 1 (no confidence) to 5 (very confident), how confident did you feel drafting the contract? What resources did you use to draft the contract?
2. Did you review the entire contract with your client?
3. How did you determine the clauses to ensure that your client's needs were represented in the Contract of Purchase and Sale?
4. When you asked your managing broker to review the contract prior to having your client sign it what advice did he/she provide?
5. How did you explain the Home Buyer Recission Period to your client?
6. How did the Knowledge Base assist you in the drafting of an enforceable contract? What sections, clauses and/or articles did you review that were helpful in the drafting of the contract?



Assignment Six: Presenting an Offer, and Negotiating a Counter-Offer on Behalf of a Seller

OVERVIEW

As a part of performing your duties for your seller client who has received an offer from a buyer you will need to review the offer with your seller client, prepare a counter-offer on behalf of your seller client, and keep their interests and contract requirements in mind. As you progress through this assignment, monitor your progress and comment on it in the reflection questions that appear at the end of each assignment.

PRESENTING AND NEGOTIATING THE OFFER

Supporting Resources

- Knowledge Base and Practice Guidelines; and
- Disclosure to Sellers of Expected Remuneration form.



Instructions

Use the following list to help in your presenting a buyer's offer to your seller client. Remember to provide the seller with a Disclosure to Sellers of Expected Remuneration form for all offers submitted.

- Review the offer with your client ensuring they understand all the terms and subject conditions.
- Provide the buyer with the Home Buyer Recission Period disclosure and discuss the implications (either by way of the Contract of Purchase and Sale or the 57.1 disclosure form).
- Discuss the pros and cons of the offer with your client.
- If your client wants to make a counter-offer, amend the offer in writing, ensuring that any changes are clear and reflect your client's intentions. (remember to recalculate the recission fee if applicable).
- Be sure to have your client initial each change and verify that the time provided by the buyer in the contract to respond has not lapsed.
- If there are two acceptable offers, discuss the option of accepting one offer as a backup offer (if approved by the buyer).
- Ensure the seller understands the dollar amount of remuneration they will be paying for each offer submitted using the Disclosure to Sellers of Expected Remuneration form.



Reflection Questions

1. Describe the requirements of the Disclosure to Seller of Expected Remuneration? When is it completed? Who completes it? Who receives a copy?
2. Did you discuss the difference between recission fee and deposit? Did you remember to explain the collection of the recission fee (if any) and how the recission notice should be delivered and to whom? Did the seller have any questions and how were you able to answer them?
3. Describe, in detail, the process for countering an offer. Include a minimum of five steps.
4. What things could 'go wrong' in a counter-offer situation? Explain how you could prevent each of these things from occurring.
5. Define a back-up offer. How did you explain a back-up to your seller?

Assignment Seven: Overall Reflection on the Practical Field Assignments

For the final assignment, you must reflect on the transactions you facilitated during this practical component of the course. Your responses to the following questions will be submitted directly to your Component Four instructor. These responses, along with the responses from all the learners in your cohort will guide the topics for instruction in Component Four, your final in-person classroom session.





Reflection Questions Part 1

1. In completing your practical field assignments, you were asked to apply what you learned in Component Two to various activities related to the provision of trading services. In the practical application of agency, disclosure, conflicts, contracts and anti-money laundering what are three things that you learned that Component One and/or Component Two did not teach you? Explain why these learnings are significant to you as a licensee.
2. Which of the six practical field assignments was the most challenging and which was the least challenging for you to complete? Explain using a minimum of three reasons for each of your choices.
3. Which of the six practical field assignments did you feel least prepared to complete? Explain your choice. Where did you find the information that you needed to complete the assignment? What resources did you access?



Reflection Questions Part 2

Use the rating scale to respond to the following questions.

4. When I had to describe agency to a potential client, I clearly articulated my duties to the client.
 - a) Not at all
 - b) Somewhat
 - c) Very
 - d) N/A - I did not complete this activity

5. When I had to describe a no agency relationship with a consumer, I was able to clearly articulate the risks associated with being an unrepresented party.
 - a) Not at all
 - b) Somewhat
 - c) Very
 - d) N/A - I did not complete this activity

6. When I was at an open house, I could address my agency role to attendees well.
 - a) Not at all
 - b) Somewhat
 - c) Very
 - d) N/A - I did not complete this activity

7. When I spoke to my value and expected remuneration, I felt comfortable.
 - a) Not at all
 - b) Somewhat
 - c) Very
 - d) N/A - I did not complete this activity

**Reflection Questions Part 2, Continued**

8. When I listed a property, I completed the documentation accurately.
- a) Not at all
 - b) Somewhat
 - c) Very
 - d) N/A - I did not complete this activity
9. I used the Buyer's Agency Exclusive Contract when speaking to potential buyer clients.
- a) Not at all
 - b) Somewhat
 - c) Very
 - d) N/A - I did not complete this activity
10. When I measured the property, I double-checked the measurements to ensure accuracy.
- a) Not at all
 - b) Somewhat
 - c) Very
 - d) N/A - I did not complete this activity
11. I could easily access information on clauses from the Knowledge Base when drafting a CPS.
- a) Not at all
 - b) Somewhat
 - c) Very
 - d) N/A - I did not complete this activity
12. After completing the online modules and the classroom instruction, I felt well prepared to complete the practical field assignments.
- a) Not at all
 - b) Somewhat
 - c) Very
 - d) N/A - I did not complete this activity



Reflection Questions Part 3

Respond to the following true/false questions:

13. I had a conflict of interest situation when working with two clients.

- a) True
- b) False

14. Finding information about a property was challenging.

- a) True
- b) False

15. Ascertaining my client's needs was challenging.

- a) True
- b) False

16. I found drafting the contract of purchase challenging.

- a) True
- b) False

17. I had to disclose a material latent defect when working with a client.

- a) True
- b) False

18. My client disclosed a material latent defect.

- a) True
- b) False

19. I had to disclose an interest in trade to a client.

- a) True
- b) False



APPENDIX A: SELF-ASSESSMENT RUBRIC

Description of Criteria	Levels of Proficiency		
	Emerging	Developing	Mastering
Describes the differences between an agency and a no agency relationship.	<ul style="list-style-type: none"> Unable to differentiate between the services provided to a represented party versus an unrepresented party. Reliant on additional supports to explain the fiduciary duties of a licensee. 	<ul style="list-style-type: none"> Relies on course material and the Disclosure of Representation in Trading Services form to differentiate between the services provided to a represented versus an unrepresented party. Somewhat explains the fiduciary duties of a licensee with reference to additional supports. 	<ul style="list-style-type: none"> Differentiates between the services provided to a represented versus an unrepresented party using practical examples and incorporating course materials. Fully explains the scope of the fiduciary duties of a licensee, and authentically references industry materials.
Describes the duties under designated agency in rule 3-3 and rule 3-4.	<ul style="list-style-type: none"> Unclear on the specific duties a licensee owes to a client or an unrepresented party. 	<ul style="list-style-type: none"> Describes the duties owed and need to avoid conflicts of interest with minimal errors. 	<ul style="list-style-type: none"> Clearly describes the duties owed under designated agency.
Explain the contents and purpose of the Disclosure of Representation in Trading Services form.	<ul style="list-style-type: none"> Unclear on the contents and purpose of the Disclosure of Representation in Trading Services form. Unclear on when disclosure is needed or how and in what form. Omits to describe the purpose of the Disclosure of Representation in Trading Services form in the role play scenarios. 	<ul style="list-style-type: none"> Can explain most aspects with heavy reliance on reading from the materials. Presents the Disclosure of Representation in Trading Services form in a mechanical and rehearsed manner in the role play scenarios. 	<ul style="list-style-type: none"> Clear on when and how to disclose as required under sections 5-10 of the rules. Comfortable in conceptualizing all aspects of agency as articulated in the Disclosure of Representation in Trading Services form. Effectively communicates the contents and purposes of the Disclosure of Representation in Trading Services form in reviewing with consumers.
Describe Disclosure of Risk to Unrepresented Parties.	<ul style="list-style-type: none"> Unsure of how to approach the disclosure with an unrepresented party. Uncomfortable with the dialogue in the case scenario. 	<ul style="list-style-type: none"> Aware of the Council form required under section 5-10.1. Moderately refined description of limited services, the risks and the advice to seek independent professional assistance. 	<ul style="list-style-type: none"> Fully versed on the requirements for disclosure. Well prepared for the discussion of the risks of being an unrepresented party and the limited duties owed, and the benefits of being represented.

Description of Criteria	Levels of Proficiency		
	Emerging	Developing	Mastering
Conflicts of Interest.	<ul style="list-style-type: none"> • Unsure of how to identify conflicts of interest. • Not sure of timing of disclosure of conflicts of interest or any documentation requirements requiring the same. 	<ul style="list-style-type: none"> • Can identify some conflicts of interest. • Can discuss when a conflict might occur with a client, but relies on the Council materials. 	<ul style="list-style-type: none"> • Able to identify the different conflicts of interests that can occur in a real estate transaction. • Can articulate with a clients conflicts of interest, when they can occur and work with the seller to develop strategies/process for handling conflicts that may arise. • Understands the need for timely disclosure and documentation on conflicts of interest.
Describe the Disclosure of Remuneration in Service Agreements.	<ul style="list-style-type: none"> • Unsure of the various aspects of disclosures as set out in section 5-11.1 and 5-11.1a. • Unsure of what the record keeping requirements are around remuneration disclosures. 	<ul style="list-style-type: none"> • Fairly confident in the proper procedure for disclosure. • Aware of the required form for this disclosure • Moderately aware of the record keeping requirements around these disclosures. 	<ul style="list-style-type: none"> • Fully versed on the requirements for disclosure of the remuneration to be paid by the seller to the listing brokerage, to the cooperating brokerage, to be retained by the listing brokerage and any remuneration a licensee receives or anticipates receiving under section 5-11.1a. • Is aware of Council requirements around recordkeeping.
Material Information.	<ul style="list-style-type: none"> • Unsure of what material information is and how it pertains to clients in a real estate transaction. 	<ul style="list-style-type: none"> • With use of resources can explain the definition of material information. • Is able to address some materials information with clients. 	<ul style="list-style-type: none"> • Fully verse on material information. • Has created a business process around engaging with clients to understand what is important to them. • Identifies material information at a timely basis with clients, and makes them aware of information that could impact their purchasing decision in a timely basis.

Description of Criteria	Levels of Proficiency		
	Emerging	Developing	Mastering
Describes the Disclosure of Material Latent Defect as set out in rule 5-13.	<ul style="list-style-type: none"> Unsure of what distinguishes a material latent defect from a stigma. Unsure as to when/if Buyer Beware applies. 	<ul style="list-style-type: none"> Fairly clear on what defines a material latent defect. Fairly clear on the difference between a material latent defect, a patent defect and a stigma and what the requirements are pertaining to the disclosure of each. Provides a rehearsed definition of Buyer Beware. 	<ul style="list-style-type: none"> Clearly describes how to identify a material latent defect. Clearly differentiates between a material latent defect, a patent defect and a stigma and what the requirements are pertaining to the disclosure of each. Clearly explains how to disclose a material latent defect in a manner approved by Council.
State the process for having a seller complete the Property Disclosure Statement accurately.	<ul style="list-style-type: none"> Unsure about the required process for completion or the basis of opting out. Uncertain as to how a licensee must disclose a material latent defect. 	<ul style="list-style-type: none"> Can state the process for completing the property disclosure statement. Some outstanding questions regarding where to access answers to the questions on the property disclosure statement. Articulates the rule requiring a licensee to disclose material latent defect yet uncertain as to the process. 	<ul style="list-style-type: none"> Confidently states the process of having the seller complete the property disclosure statement. Lists places where to find responses to the questions posed on the property disclosure statement. Articulates how a licensee must to disclose a material latent defect.
Explain process for Preparing a Listing Presentation.	<ul style="list-style-type: none"> Unsure of terms and conditions or best practice for determining list price or duration of listing. 	<ul style="list-style-type: none"> Reasonably skilled at conducting a listing presentation. Further practice on discussion of the Schedule "A", and enhanced explanation of clauses included on the MLS contract needed. 	<ul style="list-style-type: none"> Confident at ability to prepare a listing contract with a client and discussing all terms, conditions and services to be given in my client's best interest.
Preparing a Contract of Purchase and Sale for a client.	<ul style="list-style-type: none"> Uncertain about the clauses and phrases needed to protect my client. Unclear on details of the deposit. 	<ul style="list-style-type: none"> Reasonably skilled at drafting a CPS with reliance on the Professional Standards Manual. May rely on their managing broker for review. Clear on the details of the deposit. 	<ul style="list-style-type: none"> Confident at ability to write a contract of purchase and sale that protects my client and reflects their best interests in the transaction. Clear on the details of the deposit.

Description of Criteria	Levels of Proficiency		
	Emerging	Developing	Mastering
Disclosure of Interest in Trade.	<ul style="list-style-type: none"> • Unsure as to what triggers the need to disclose an interest in trade, but is aware that it may be required. 	<ul style="list-style-type: none"> • Is familiar with the rules surrounding the disclosure of interest in trade. • Seeks guidance from their Managing broker when unsure if a disclosure of interest in trade is required, before entering into a transaction. • Is familiar with the forms of the Disclosure of Interest in Trade, but has questions on the execution of the document. 	<ul style="list-style-type: none"> • Can identify the need for the Disclosure of Interest in Trade pertaining to the Rules, and when it is required. • Can execute the disclosure of interest in trade with confidence and present it to clients ensuring they are informed of the contents of the disclosure. • Is aware of the record keeping requirements around the disclosure of interest in trade.
Explain the process for the handling of deposits.	<ul style="list-style-type: none"> • Difficulty with required wording on when, how and how much to set the deposit at. • Is uncertain that deposits form part of the terms of the contract. • Is unsure of the notices required for late deposits. • Is unaware of the process for deposit releases. 	<ul style="list-style-type: none"> • With the support of course materials, can state deposit details on the contract of purchase and sale. • Has some knowledge on deposits as a term of contract. • Refers to the managing broker for advice pertaining to notice for late deposits. • With support can state the process for deposit release. 	<ul style="list-style-type: none"> • Clearly states the deposit provision on the contract of purchase and sale. • Articulates with clients the importance of the deposit and the form and timing deposit is received. • Knows whom to inform immediately when deposit is late. • Confidently explains the process for deposit releases to a consumer.
Explain the FINTRAC requirement.	<ul style="list-style-type: none"> • Unclear on the importance, relevance or process for obtaining the necessary documentation to meet the requirements of FINTRAC. 	<ul style="list-style-type: none"> • Clearly states the importance, relevance or process for obtaining the necessary documentation to satisfy FINTRAC requirements. 	<ul style="list-style-type: none"> • Confidently explains how to advise a consumer of the obligations under the Proceeds of Crime and Terrorist Financing Act and the process involved.
Counter-Offers.	<ul style="list-style-type: none"> • Unsure of the paperwork required to prepare a counter-offer, or the requirements of signatures, extensions of dates for consideration, etc. 	<ul style="list-style-type: none"> • Can work through the counter-offer process with assistance from the managing broker. • Is developing confidence in explaining the counter-offer process to a client. 	<ul style="list-style-type: none"> • Can advise, and prepare a counter-offer following a clients lawful instructions. • Can articulate the counter-offer process to a client.



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