LEARNING OBJECTIVES:

Students should be able to

- define agency and define and identify the terms often used in the discussion of agency: agent, principal, fiduciary, client, and customer;
- describe and identify universal agent, general agent, special agent, and agency coupled with an interest, and describe the scope of authority granted under each;
- describe how agency relationships are created and define express and implied agency;
- describe basic agency relationships and the issues surrounding those relationships and describe and identify characteristics of agency relationships when the seller is the principal, buyer is the principal, or broker is the principal;
- identify and describe the six fiduciary duties an agent has to the principal, and state what happens if an agent breaches these duties;
- describe and explain an agent’s duties to third-party customers, especially regarding misstatements, misrepresentation, and potential fraud;
- explain who may compensate the broker and how compensation is negotiated;
- discuss the ways in which agency relationships can be terminated; and
- summarize the four distinct acts that violate antitrust laws and penalties for violations.

KEY TERMS:

- accountability
- agency
- agency coupled with an interest
- agent
- broker’s agent
- brokerage
- buyer’s agent
- client
- co-brokerage
- commission
- confidentiality
- cooperating agent
- customer
- disclosure
- dual agency
- estoppel
- express agency
- fiduciary
- fiduciary duties
- first substantive contact
- fraud
- general agent
- group boycott
- implied agency
- informed consent
- latent defects
- law of agency
- listing agreement
- loyalty
- market allocation
- meeting of the minds
- misrepresentation
- multiple listing service (MLS)
- obedience
- power of attorney
- price-fixing
LECTURE OUTLINE:

I. KEY TERMS

II. WHAT IS AGENCY
   A. Importance of Agency Law to Licensees

III. PARTIES INVOLVED

IV. TYPES OF AGENTS
   A. Scope of Authority

V. CREATION OF AGENCY
   A. Express agency
   B. Implied agency
   C. Compensation

VI. AGENCY AND BROKERAGE—ARE THEY SYNONYMOUS?
   A. Whom does the agent represent?
   B. Seller as principal/client
   C. Buyer as principal/client
   D. Broker as principal
   E. Basic agency relationships
      1. Compensation from more than one party in a transaction
      2. Dual agency
      3. Self-dealing

VII. FIDUCIARY RESPONSIBILITIES
   A. Care
   B. Confidentiality
   C. Loyalty
   D. Obedience
   E. Accounting (Documents and escrowed funds)
   F. Disclosure
   G. Breach of fiduciary duties
   H. Scope of authority

VIII. AGENT’S RESPONSIBILITIES TO OTHER PARTIES IN THE TRANSACTION
   A. Opinion versus fact
   B. Misrepresentations
   C. Environmental concerns
   D. Latent defects
   E. Stigmatized properties
   F. Megan’s Law

principal
procuring cause of sale
puffing
ratification
ready, willing, and able buyer
reasonable care
seller’s agent

self-dealing
special agent
subagent
tie-in arrangements
undisclosed dual agency
undivided loyalty
universal agent
IX. THE BROKER’S COMPENSATION
   A. Salesperson’s compensation

X. TERMINATION OF AGENCY

XI. ANTITRUST

XII. ANTITRUST LAWS
   A. History of antitrust laws
   B. Price-fixing
   C. Group boycott
   D. Market allocation
   E. Tie-in arrangement
   F. Penalties for violating antitrust laws

XIII. KEY POINT REVIEW

XIV. UNIT 2 EXAM