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MAR Legal Hotline Q&A



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Q. Is a broker able to associate with more than one brokerage?

A. Yes, the single affiliation requirement contained within Massachusetts General Laws Chapter 112, Section 87RR speaks only to individuals licensed as salespersons. As the law is silent in this regard as to those licensed as real estate brokers, brokers may associate with multiple brokerages. Although permissible under Massachusetts laws, a broker of record may restrict associate brokers from working at another brokerage.

Q. If I represent two buyers interested in submitting an offer on the same property is that dual agency?

A. No, this is not considered dual agency. An agent may represent multiple buyers interested in the same property so long as the agent is able to fulfill their fiduciary responsibilities to each. The MAR Exclusive Buyer Agency Agreement speaks exactly to this possibility and affirmatively states that this situation does not constitute a conflict of interest and that the broker will maintain the confidentiality of each buyer. Given the current market conditions, brokers may want to ensure that buyers are specifically aware of this provision to avoid problematic situations. Additionally, dependent upon the comfort level of the buyers and the broker involved, it may be appropriate to refer one buyer to another agent for that particular property.

Q. What advice can I give to my clients to mitigate the risk of wire fraud?

A. With a significant number of real estate transactions happening largely remotely over the last year, there has been a dramatic rise in internet-related crimes. 2020 saw an almost 70% increase in the number of complaints according to the Internet Crime Report published by the FBI. Massachusetts reported 11,468 victims suffering a total financial loss of $97,583,753. Phishing, data breaches, and spoofing not related to a specific industry were some of the top reported internet crimes. Internet-based real estate crimes placed 14th on the list nationally.

Given this information, it is critical to develop office policies to mitigate the risk of becoming a victim of an internet crime and to counsel buyers and sellers of the risks associated with transacting remotely. Use the MAR Wire Fraud Advisory to advise your clients to:

- Never wire funds without independently verifying all information;
- Independently verify contact information shared within an email;
- Only send personal information (SSN, account numbers, etc.) through a securely encrypted email or personal delivery to the intended recipient; and
- Use strong passwords and secure WIFI.

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