

The Buyer Conversation

Facilitated by:
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ABR, AHWD, CRB, GRI, PSA,
RENE, SFR, SRS, SRES, C2EX

ReTHINK
Compensation
Conversations

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Current Legal Issues

- Have been discussed in many other courses and venues
- We talked about them at our Coffee & Conversation in August
- Constantly changing as they go thru the courts
- Still waiting to see what DOJ says!

LAW

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In a Nutshell.

- These lawsuits claim the sellers are being forced to pay buyer brokerage compensation with no negotiation
- DOJ filed a lawsuit that was precursor to recent NAR changes
 - Buyer brokerage compensation offer in MLS must be available to public
- Buyer agents cannot say their services are free – costing the buyers nothing

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In a Nutshell.

- There are MLSs that have changed their policy on mandatory offer of compensation
- Including MRED – as of October 31 – you can put a listing in with 'zero'.
- This does not mean it WILL happen – as Chris talked about last month – it will still be in the sellers' best interest to offer compensation since most of our buyers do not have the extra money at closing to pay their brokerage themselves.

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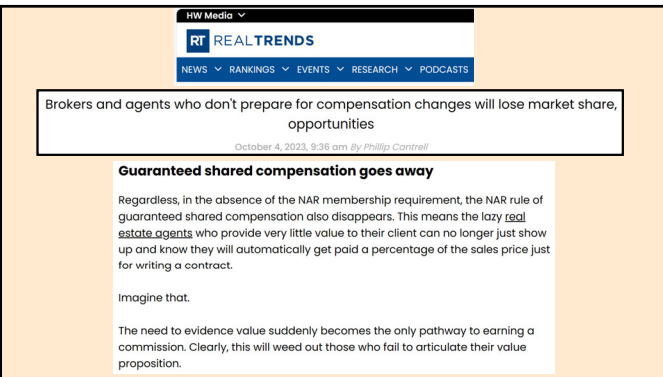
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What COULD happen?

- Blame the MLS & NAR for the whole mess – make them separate
- Forbid any offer of compensation in the MLS
- Forbid mandatory offer in MLS
- We win – everything still needs to change

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RT REALTRENDS
NEWS ▾ RANKINGS ▾ EVENTS ▾ RESEARCH ▾ PODCASTS

Brokers and agents who don't prepare for compensation changes will lose market share, opportunities

October 4, 2023, 9:36 am by Phillip Connell

Guaranteed shared compensation goes away

Regardless, in the absence of the NAR membership requirement, the NAR rule of guaranteed shared compensation also disappears. This means the lazy real estate agents who provide very little value to their client can no longer just show up and know they will automatically get paid a percentage of the sales price just for writing a contract.

Imagine that.

The need to evidence value suddenly becomes the only pathway to earning a commission. Clearly, this will weed out those who fail to articulate their value proposition.

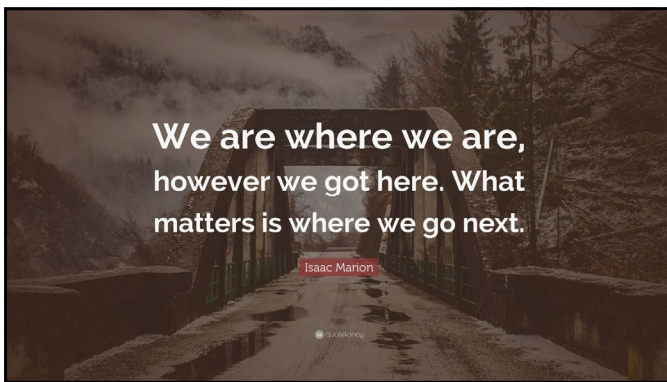
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- Compensation conversation with clients must change
- High probability you will need buyer rep agreement to get paid
- Must be able to effectively communicate our value proposition to our clients

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We are where we are,
however we got here. What
matters is where we go next.

Isaac Marion
@isaacmarion

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What's Your Value Proposition?


- To get commitment from the buyer – we must show them what we do
- Many believe they have all the info they need to be an educated buyer – we know that's not usually the case
- Understanding what we do and then being able to translate that into a benefit to the buyer is the foundation of buyer agency
- You won't get commitment from the buyer without committing to them first.



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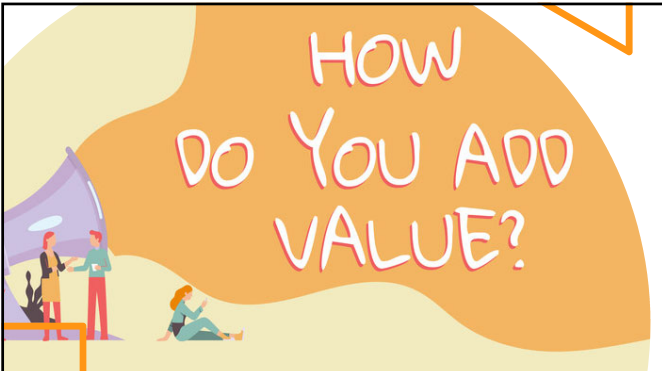
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- Add the value – the why!
- Not always clear to client why it's important
- People do business with you because they have needs
- What you do must satisfy a need
- And in real estate – they sometimes don't even understand WHY they need it!


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HOW DO YOU ADD VALUE?

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Feature

- Element of what you do
- Describes a service
- Assumes client understands importance

Benefit

- Describe service – but
- We need to tie it to how it improves client's situation

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- Most clients don't understand
 - Who works for whom
 - How things work
 - How people are paid
 - Difference between a client and a customer

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Contents of Buyer Counseling Session

What buyer needs and wants	Buyer qualification: financial and motivation	What you do to find the property
How you assist them in getting best price and terms	What it takes to get to closing	How you get paid for all this!

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Buyer Qualifying Questions

- How long have you been looking for a home?
- How have you been doing that?
- Have any agents shown you houses?
- What was your relationship with them?
- What did you sign with them?
- Did you see anything you liked?
- What kept you from buying it?

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Buyer Qualifying Questions




- Describe your ideal home
- If we can't find everything – what would you compromise on?
- Deal breakers?
- Tell me a little bit about your lifestyle?
- If money were no object – what have you always wanted?
- Anything else I need to know?

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Explain the Buying Process



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graph TD; A[Mortgage pre-approval] --> B[Wants and needs]; B --> C[The Search process]; C --> D[Reanalyzing wants and needs]; D --> E[Write offer that has best odds of being accepted]; E --> F[Coordinate survey, termite, well, septic, etc.]; F --> G[Resolve home inspection issues]; G --> H[Coordinating the home inspection]; H --> I[Negotiate the best price and terms]; I --> J[Do CMA prior to offer]; J --> K[Determine offer price]; K --> L[The Search continues]; L --> A; M[Resolving appraisal issues] --> N[Coordinate a successful closing!];
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What We Do

- Find suitable property
- Show property
- Analyze the market
- Write the offer
- Negotiate on your behalf
- Follow-through to closing



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Why choose me?

What I Do	How I Do It	Benefit to Buyer
Find Suitable Property	<ul style="list-style-type: none"> • Private listings • Previous sellers • Agents in our office • Agents in other offices 	<ul style="list-style-type: none"> • Not all available properties are on the internet – not all properties on the internet are available

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Why choose me?

What I Do	How I Do It	Benefit to Buyer
Show Property	<ul style="list-style-type: none"> • Point out features • Remind you of your 'wants & needs' list • Help you compare 	<ul style="list-style-type: none"> • Sellers 'stage' their homes for a reason. We need to look at things that don't change and how difficult it may be to change others

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Why choose me?

What I Do	How I Do It	Benefit to Buyer
Analyze the Market	<ul style="list-style-type: none"> • Utilize MLS analytics • Trained on reading the data to determine if it is a buyers or sellers market • Will do CMA 	<ul style="list-style-type: none"> • You want to buy a home – not just make an offer. I help you get the property at the best price and terms for the current market

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Everything we do depends on whether it is a buyer or sellers' market. Currently we are in a sellers' market in our area. Let me share with you some information from our MLS that shows us what is currently happening in *Blissville*.

- New listings
- Homes on the market
- Days on market
- Sold properties
- Absorption rate (months supply)

Use Infospars

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Pledge of Performance

Because I am committed to preparing you to be an educated buyer, I will:

- ... give you the most vital information on available homes
- ... set you up on the automatic notification program in the MLS
- ... set up an internal 'hot-sheet' in our MLS to alert me each morning of new homes
- ... keep you aware of changes in the real estate market
- ... arrange a tour of areas, schools and key points of interest
- ... provide neighborhood information on municipal services, schools, churches, etc.
- ... get you information so you can check applicable zoning and building restrictions
- ... disclose all known facts about properties I show you
- ... collect pertinent data on values, taxes, utility costs, etc.
- ... point out strengths and weaknesses of all properties you choose to view
- ... explain forms, contracts, escrow and settlement procedures
- ... discuss loan qualification and processing

Because I am committed to helping you save time, I will:

- ... provide ready access to all MLS listed properties
- ... assist you as needed on all unlisted properties
- ... help you select for viewing only those homes that fit your needs
- ... show you homes only in the price range most suited to your finances
- ... provide you a list of qualified attorneys, home inspectors or other service providers
- ... arrange for necessary property inspections

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Because I am committed to helping you find the best value, I will:

- ... prepare studies of property values in chosen areas
- ... perform a market analysis on chosen properties
- ... see that you get a complete estimate of all costs involved
- ... advise on offers on properties
- ... write and present your purchase agreement to the seller
- ... negotiate on your behalf

Because I am committed to you – my buyer – I will do all of this – plus:

- ... keep your personal information confidential at all times
- ... stay in touch with you from the day you start your search until the day you move in
- ... coordinate all aspects of the sale and closing
- ... receive compensation only when we have a successfully closed transaction

Agent Signature _____ Date _____

Contact Information Phone _____

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BUYING A HOME IS EASY!*
 *If You Work with a Real Estate Agent Who is a REALTOR®

SOME PEOPLE THINK BUYING A HOME IS AS SIMPLE AS:

- Look at houses online
- Find something you can afford
- Sign some papers

BUT THERE'S SO MUCH MORE TO IT.

Some of the things a real estate agent who is a REALTOR® helps you with include:

GETTING STARTED

- Educate client on home buying process and coordinate a plan.
- Review buyer rep agreement, agree upon representation and negotiate compensation.
- Understand budget and explain what will be needed financially.
- Search local broker marketplaces to find best matches.
- Serve as local housing market expert (e.g., price trends, negotiation trends, community).
- Arrange tours of homes and neighborhoods.
- Decipher public property and tax information.



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FINDING YOUR HOME

- Research home information that aligns with buyers' interests.
- Prepare buyer to have the most attractive offer in the current marketplace.
- Coordinate professional home inspections, consultations with lenders and necessary property assessments.
- Develop competitive offers and negotiate the best price and terms.
- Represent clients' best interests, advise throughout the negotiation process and close the deal.
- Steward multiple parties and schedules to save buyer time.
- Look beyond décor, flooring and paint colors to other significant aspects of home.



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ACHIEVING HOME

- Navigate state and local requirements
- Research mortgage options and reputable lenders
- Coordinate with lender and attorney
- Steward important contract deadline
- Provide guidance throughs prior to closing
- Work with necessary professionals to ensure all contract requirements completed by closing



Ensure all required actions are complete in advance, so closing is a celebration, rather than a stressor.

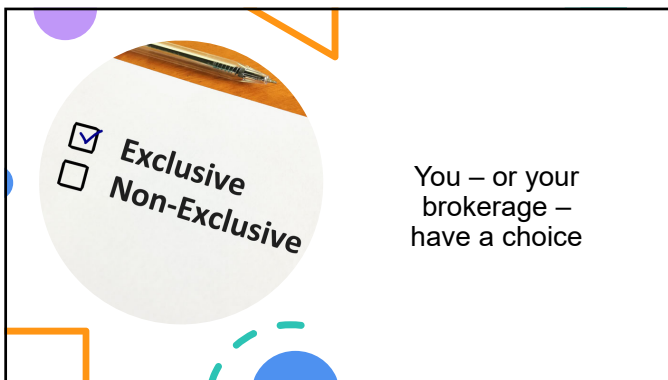
Choose a real estate agent who is a lifelong, trusted advisor!



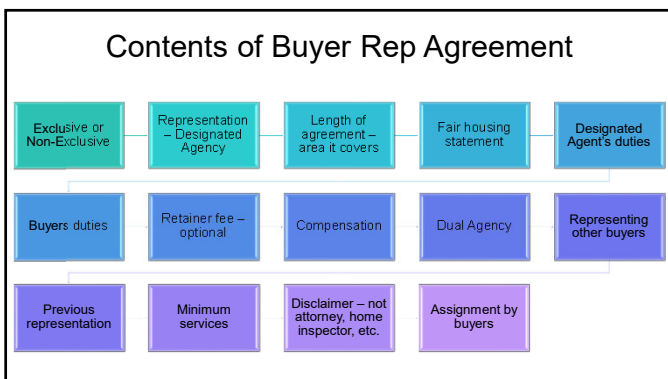
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**MAINSTREET ORGANIZATION OF REALTORS®
EXCLUSIVE BUYER REPRESENTATION AGREEMENT**

73 **7. Compensation:** If, during the term of this Agreement or the Protection Period, Buyer enters into a contract to acquire real
 74 estate and such contract results in a closed transaction, Buyer agrees to pay to Brokerage a fee of \$ _____
 75 or _____ % of the purchase price [BROKERAGE FEE] at the time of the closing of the property. If the compensation being
 76 offered by the seller or seller's brokerage, including any bonus, is less than the Brokerage Fee, Designated Agent will inform
 77 Buyer prior to showing the property.

• Fee can be dollars or percent of sales price
 • Agent must disclose to buyer if fee being offered is less than what is owed and give buyer their options



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Buyers have choices



- 01 Choose to not look at the property
- 02 Pay their brokerage at closing
- 03 Ask seller to pay as part of sales contract

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78 Any compensation collected from the seller or seller's brokerage will be applied to Brokerage Fee with any remainder owed by
 79 the Buyer to be paid by the Buyer or Brokerage upon closing of the property. The Designated Managing Broker will make
 80 every effort to collect the compensation of the Brokerage Fee from the seller or the seller's brokerage. If the amount being
 81 offered by the seller or seller's brokerage, including any bonus, exceeds Brokerage Fee, Designated Agent(s) shall disclose this
 82 to Buyer. Any amount being offered by seller or seller's brokerage exceeding Brokerage Fee, up to \$ _____
 83 or _____ % of the purchase price may be:

84 retained by Brokerage;
 85 refunded to Buyer; or
 86 negotiated at the time of purchase agreement.

87 Any amount being offered by seller or seller's brokerage which does not satisfy the Brokerage Fee, shall be paid by the Buyer
 88 upon closing or by the seller as negotiated in the purchase contract.

89 In the event of a lease, Buyer's Brokerage Fee shall be \$ _____. Designated Managing Broker will make
 90 every effort to collect said Brokerage Fee from owner or listing brokerage.

• If fee collected is more than what buyer has committed to – this spells out what happens to the overage
 • Sets fee for leasing – if it occurs


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You are in control of how our compensation is paid – you will always have the option of asking the seller to pay it.

As a matter of fact, in most cases you are paying it in the amount you offer to the seller. The seller has factored our compensation into the amount the listing office is offering us in the MLS, or a FSBO is willing to pay.

If there is any time that our agreed upon brokerage fee is not included in the price the seller is asking, I will notify you of that prior to looking at the property.

You have the option of not viewing the property – paying the compensation yourself at the closing – or, and I recommend this one ☺ – you can ask the seller to include it in what they are paying.




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What I bring to you is not just the hours – and they are numerous – that I put in to finding you the right property, at the best price and terms and making sure that we get to the closing table – it is the years of experience and the constant effort that I put in to stay on top of an ever-changing marketplace.

The compensation paid to the buyer brokerage has historically been paid by the seller at the closing – out of the proceeds they have available based on how much the buyer is paying for the property. The compensation, then, has always been paid by the buyer – it's just a bit more transparent now.



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Buyer Agent – With Buyer Rep Agreement

- Establish compensation at time of agreement
 - You and the buyer decide
 - Not the seller and listing agent
- Compensation is negotiable – can ask for more prior to showing
- Must disclose to buyer prior to showing if compensation in MLS is less than agreed upon
- Buyer can pay difference between what is in MLS and what buyer owes
- Buyer can ask seller in sales contract to pay
- Buyer can choose to not look at the property

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RT REALTRENDS Welcome, Lynn

Listing agents must prepare for influx of unrepresented buyers

This is the other fear many agents have!

Addressing the second point of critical change requires only a basic understanding of how agency law works. If guaranteed shared compensation goes away, there will be an increase in unrepresented buyers coming to your listings directly.

However, it's critically important to understand that, as the listing agent, an unrepresented buyer has zero impact on your role or on how much you get paid. Those details are clearly established in the listing agreement between your brokerage and the seller.


Understand this clearly: the total compensation agreed to by the seller is not dependent on whether or not the buyer has representation.

Read your brokerage's listing agreement. Nowhere in it is language that automatically changes how much you are paid if an unrepresented buyer shows up unless you specifically insert it.

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No written agreement . .

- You don't like offer of compensation?
 - Work for whatever the seller/listing office is paying
 - Tell buyer they can look at it with someone else
 - Have buyer sign buyer rep agreement – see above!



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#1 BESTSELLER

An A-Mazing Way to Deal with Change in Your Work and in Your Life

Who Moved My Cheese?

Spencer Johnson, M.D.

Foreword by Kenneth Blanchard, Ph.D.
coauthor of **The One Minute Manager**
The World's Most Popular Management Method



A GEM SHALL AND VALUABLE

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#1 BESTSELLER
 An A-Mazing Way to Deal with Change
 in Your Work and in Your Life

Who Moved My Cheese?
 Spencer Johnson, M.D.
 Foreword by Kenneth Blanchard, Ph.D.
 coauthors of **The One Minute Manager**
 The World's Most Popular Management Method

Change Happens
 They keep moving the cheese

Anticipate Change
 Get ready for the cheese to move

Monitor Change
 Smell the cheese often so you know
 when it is getting old

Adapt To Change Quickly
 The quicker you let go of old cheese,
 the sooner you can enjoy new cheese

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Change
 Move with the cheese

Enjoy Change!
 Savor the adventure and enjoy
 the taste of new cheese

**Be Ready To Change Quickly
 And Enjoy It Again**
 They keep moving the cheese!

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**Mainstreet is here to help you
 find your cheese!**

- Updated Exclusive Buyer Rep Agreement
- Creating Non-Exclusive Agreement
- Created Compensation Addendum
- Holding ABR classes
- Making CE classes available that cover the
 compensation issues with the buyers and
 sellers

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- Regardless of outcome of lawsuits – disclosure of compensation to buyers is the right thing to do
- Using buyer rep agreements in best interest of everyone


Provided


- Agents understand their duties and responsibilities are heightened when using exclusive agreements
- If agents aren't going to live up to their duties – they shouldn't be using buyer rep agreements – hard stop!

FINAL THOUGHTS


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THE SKY IS FALLING!
THE SKY IS FALLING!





LIFE IS FULL OF CHOICES



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CODE COMPREHENSION

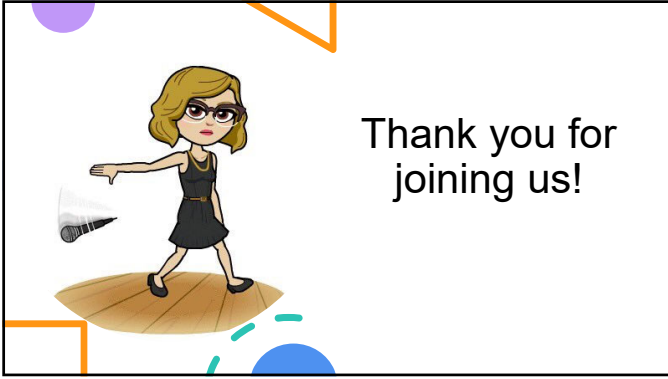
ARTICLE 16
Commissions are Negotiable



QUESTION:
There is a home in the MLS that I think my buyer client would love, but the commission being offered by the listing broker is lower than I want to be paid. It's so low that it won't cover the time or effort I put in to representing the buyer throughout the transaction. I want to do the right thing. **What can I do?**

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