“LIFE AS A BROKER” (Internet)

3 Hours of Broker Management
Continuing Education
CE.7264000-RE

Approved by the Division on Behalf of the Commission

Participant Outline

JOSEPH R. FITZPATRICK

MEET JOE:

Joe Fitzpatrick graduated from The University of Nevada, Las Vegas in 1985 and began his career with Coldwell Banker in Margate, Florida, listing and selling real estate. Joe went on to manage the North Miami office and opened Century 21 Fitzpatrick Realty with family. The firm became the top-ranked Century 21 company in Broward County, Florida.

In 1991, Joe returned to Las Vegas where he began teaching and authoring real estate courses. He also continued on as Vice-President of Century 21 MoneyWorld, which was consistently ranked among the top 10 Century 21 firms in the world where he led the education division among other duties.

Joe has authored and published over 30 real estate licensing textbooks and courses available on Amazon.com and which have been approved for utilization in several states. He made a few stops along the way including being the Education Director at LVR. You may recognize his voice from other online sites. Living through sellers' markets and buyer's markets, Joe has experienced interest rate fluctuations of 17.5% and 2%. He knows what it takes to stay successful in the business no matter what the market conditions may be.

In 2021, Joe opened Fitzpatrick Real Estate School and continues to practice real estate in addition to his other responsibilities. We trust you will find Mr. Fitzpatrick's courses to be informative, interesting, and entertaining too.

ONLINE VIDEO WORKSHEET

The Nevada Real Estate Division, on behalf of the Commission, holds CE course sponsors such as Fitzpatrick Real Estate School accountable for the following regarding online/distance learning courses:

- verify that students watch the complete three-hour presentation and spend the three hours required to earn a three-hour certificate;
- verify that students did not start the presentation and leave the presentation to run on its own without the student viewing it;
- evaluate the student mastery of the material;
- provide the student with support services and interaction;
- having a method to assess student performance during instruction.

To accomplish these goals, we have developed this "Online Video Worksheet" to accompany the videos we use to teach CE courses online. Throughout the videos, have embedded "checkpoints" that will prompt you to fill in the answers below.

In order to receive credit for the online course, you must answer the checkpoints correctly with a score of 80% and submit to Joe Fitzpatrick. Please fill in the blanks below:

CHECKPOINT #1: ____

CHECKPOINT #2: ____

CHECKPOINT #3: ____

CHECKPOINT #4: ____

CHECKPOINT #5: ____

CHECKPOINT #6: ____

CHECKPOINT #7: ____

CHECKPOINT #8: ____

CHECKPOINT #9: ____

CHECKPOINT #10: ____

Student Name: ____________________________ Date: ________________

Course Title: Life as a Broker

Please submit by using the links provided on the same web page as the course videos.

I. Course Overview:

The Nevada Real Estate Division now requires brokers and broker-salespersons to complete SIX hours of broker management-approved continuing education with each two-year renewal. This course satisfies three of those six hours. If you hold a salesperson's license, this course may be applied toward your general credit requirement.

Topics in this course include:

- Qualifications for Broker-salespersons and Brokers
- Develop and Maintain Policies and Procedures
- Education and Supervision of Sales Associates
- Maintaining Proper Agency Relationships
- Following a Business and Risk Management Plan
- Turning a Profit while Offering Attractive Associate Commission Plans
- Abiding by Federal and State Laws as well as the Code of Ethics
- Potential Disciplinary Actions from the Division or REALTOR® Organization

II. Qualifications for Broker-salespersons and Brokers

A. Broker-salespersons
- pre-licensing course certificate of completion (includes 18-hour Nevada law course)
- must pass Pearson Vue's state and national broker exams
- 64 college credits (16 credits waived for every 2 years up to 10 years)
- must complete 45-hour broker course
- CE renewal must include 6 hours of broker management

B. Brokers
- pre-licensing course certificate of completion
- must pass Pearson Vue's state and national broker exams
- 64 college credits (16 credits waived for every 2 years up to 10 years)
- Applicants licensed in another state may have some hours of 64 credits waived.
- must complete 45-hour broker course
- must demonstrate 2 years of active, full-time real estate experience within the last 4 years
- must open and maintain a brokerage in Nevada
- must show financial ability to sustain operations for 180 days
- CE renewal must include 6 hours of broker management

III. Responsibilities of the Broker

A. NAC 645.600 Responsibilities of broker regarding associated licensees, employees and operation of business; agreement to retain licensee as independent contractor. (NRS 645.050, 645.190)

1. Every real estate broker shall teach the licensees associated with him or her the fundamentals of real estate or time-share practice, or both, and the ethics of the profession. The broker shall supervise the activities of those licensees, the activities of his or her employees and the operation of his or her business.

2. The supervision described in subsection 1 includes, without limitation, the establishment of policies, rules, procedures and systems that allow the real estate broker to review, oversee and manage:

(a) The real estate transactions performed by a licensee who is associated with the real estate broker;
(b) Documents that may have a material effect upon the rights or obligations of a party to such a real estate transaction;
(c) The filing, storage and maintenance of such documents;
(d) The handling of money received on behalf of a real estate broker;
(e) The advertising of any service for which a real estate license is required; and
(f) The familiarization by the licensee of the requirements of federal and state law governing real estate transactions, including, without limitation, prohibitions against discrimination.

3. In establishing such policies, rules, procedures and systems, the real estate broker shall consider the number of licensees associated with the real estate broker, the number of employees employed by the real estate broker and the number and location of branch offices operated by the real estate broker.

4. A real estate broker shall establish a system for monitoring compliance with such policies, rules, procedures and systems. The real estate broker may use a real estate broker-salesperson to assist in administering the provisions of this section so long as the real estate broker does not relinquish overall responsibility for the supervision of the acts of the licensees associated with the real estate broker.

5. A real estate broker may enter into a written agreement with each licensee associated with the real estate broker to retain the licensee as an independent contractor. If such an agreement is entered into, it must:
(a) Be signed and dated by the real estate broker and the licensee; and
(b) Include the material aspects of the relationship between the real estate broker and the licensee, including, without limitation, the supervision by the real estate broker of the activities of the licensee for which a real estate license is required.

B. Develop and Maintain Policies and Procedures

NAC 645.600 states "The broker shall supervise the activities of those licensees, the activities of his or her employees, and the operation of his or her business. The supervision described… includes, without limitation, the establishment of policies, rules, procedures and systems that allow the real estate broker to review, oversee and manage…" One can plainly see that the broker *must* establish company policies and procedures. Those brokers who utilize them find their brokerages operate much more smoothly. It is important to establish the "rules" of the organization and to make those rules readily available in writing for all affiliated licensees. Just like any other successful business, a real estate brokerage firm must have *policies* to maintain order and a professional working environment for all. A firm must have *procedures* in place to define how the daily operations and processes are to be conducted.

Brokers who fail to take this step discover themselves managing by word of mouth and unwritten rules. Some associates find working under this type of leadership to be inconsistent, unprofessional, and may become resentful toward the firm's leadership. By having a written document representing the policies and procedures, misunderstandings and inconsistent decisions are more likely to be avoided.

The broker-owner, perhaps with the input of the management team, should determine the company's philosophies, standards, ethics, and proceed to develop policies and procedures. For assistance, one can turn to reference books and the internet. Although it might be helpful to see another firm's manual, the broker should not just stamp the company logo over the other firm's manual and use that one. The broker should take the time necessary to reflect on policies and procedures that will truly create and maintain the culture desired in the office.

Legal counsel might also be sought to review the final draft. The firm wants to be sure the systems do not violate any laws or even potentially become the source of litigation. Further, the firm will want to know that the policies and procedures are legally ironclad for protective purposes in the event of a lawsuit. As an example, brokers are responsible for the acts of all associated licensees and can be disciplined even without the knowledge of an act that led to a licensee's sanction. When the broker can point to policies and procedures, the broker has a much better defense in demonstrating communication and supervision.

Below are some recommended items to be addressed in a real estate brokerage firm's policies and procedures manual:

- Company Philosophy
- Problem Resolution
- Participation in Sales Meetings/ Training
- Smoking
- Drugs and Alcohol
- Dress Code
- Housekeeping Matters
- Sexual Harassment
- Confidentiality and Fiduciary
- Advertising restrictions, especially internet and email
- Do Not Call and Anti-Spam legislation
- Office supplies
- Postage
- Yard Signs
- Advertising
- Internet Marketing
- Membership with NAR
- Payment of Dues and Office Bill
- Personal Transactions
- Keeping License Current
- Compliance with Federal, State, and Local Laws
- Termination from the Company
- Company Generated Business
- Fair Housing

Remember, the purpose of the document is to inform licensees of the way your brokerage chooses to do business. It will inform those who join your organization, and it will also serve as a point of reference for how matters are to be handled both by the licensees and management. If you have managed before, think about all the times your salespeople have said, "I didn't know that" or "no one ever told me." This document is a communication vehicle. And as we have stated, brokers often need to demonstrate in a legal suit that there are systems and procedures in place. A well written policies and procedures manual will certainly help support that case.

C. Education and Supervision of Sales Associates

Referring back to NAC 645.600, **"**Every real estate broker shall teach the licensees associated with him or her fundamentals of real estate or time-share practice, or both, and the ethics of the profession. The broker shall supervise the activities of those licensees, the activities of his or her employees and the operation of his or her business."

Brokers who continually provide educational opportunities understand this is an obligation both legally and morally. Brokers train and update their licensees through weekly sales meetings, guest speakers, bringing in continuing education courses, and supporting outside events or seminars. The prudent broker will keep excellent records as to what was taught, by whom, on what date, and which associates attended. Topics might include:

- Agency
- Contracts
- Ethics
- Legal Updates
- REALTOR® Events and Information
- Financing News
- Market Trends
- Company Policies and Procedures
- Fair Housing
- Disciplinary Actions
- Disclosure Requirements
- Transaction Management
- MLS Rules
- New Technologies
- Sales and Closing Techniques
- Taxes
- And more…

Keeping records regarding educational offerings helps the broker demonstrate compliance with NAC 645.600.

D. Maintaining Proper Agency Relationships

NRS 645.252-257 constitutes much of Nevada's agency law. As we review the provisions below, you may see how common it is for agency violations to occur.

- did not disclose to all parties as soon as practicable
- did not disclose materials facts known or that should have been known
- did not disclose each source of the licensee's compensation
- did not disclose license status when acting as a principal in the transaction
- did not obtain informed consent when needed: Consent to Act
- did not exercise reasonable skill and care
- did not maintain obligations of confidentiality
- did not present all offers as soon as practicable
- did not advise the client to obtain advice from an expert when matters are beyond the licensee's expertise
- did not account for all money and property

We encourage you to become familiar with the "Open House" newsletter published quarterly by the Nevada Real Estate Division. An enormous number of violations such as those just listed appear in licensee disciplinary actions. To access the newsletter:

1. go to the Division website https://red.nv.gov/
2. select "Publications"
3. choose "Newsletters"
4. click on "Open House"
5. select the quarterly publication you desire

NRS 645 statutes pertaining to agency:

NRS 645.252 Duties of licensee acting as agent in real estate transaction. A licensee who acts as an agent in a real estate transaction:

1. Shall disclose to each party to the real estate transaction as soon as is practicable:

(a) Any material and relevant facts, data or information which the licensee knows, or which by the exercise of reasonable care and diligence should have known, relating to the property which is the subject of the transaction.

(b) Each source from which the licensee will receive compensation as a result of the transaction.

(c) That the licensee is a principal to the transaction or has an interest in a principal to the transaction.

(d) Except as otherwise provided in NRS 645.253, that the licensee is acting for more than one party to the transaction. If a licensee makes such a disclosure, he or she must obtain the written consent of each party to the transaction for whom the licensee is acting before he or she may continue to act in his or her capacity as an agent. The written consent must include:

(1) A description of the real estate transaction.

(2) A statement that the licensee is acting for two or more parties to the transaction who have adverse interests and that in acting for these parties, the licensee has a conflict of interest.

(3) A statement that the licensee will not disclose any confidential information for 1 year after the revocation or termination of any brokerage agreement entered into with a party to the transaction, unless he or she is required to do so by a court of competent jurisdiction or is given written permission to do so by that party.

(4) A statement that a party is not required to consent to the licensee acting on behalf of the party.

(5) A statement that the party is giving consent without coercion and understands the terms of the consent given.

(e) Any changes in the licensee's relationship to a party to the transaction.

2. Shall exercise reasonable skill and care with respect to all parties to the real estate transaction.

3. Shall provide the appropriate form prepared by the Division pursuant to NRS 645.193 to:

(a) Each party for whom the licensee is acting as an agent in the real estate transaction; and

(b) Each unrepresented party to the real estate transaction, if any.

4. Unless otherwise agreed upon in writing, owes no duty to:

(a) Independently verify the accuracy of a statement made by an inspector certified pursuant to chapter 645D of NRS or another appropriate licensed or certified expert.

(b) Conduct an independent inspection of the financial condition of a party to the real estate transaction.

(c) Conduct an investigation of the condition of the property which is the subject of the real estate transaction.

NRS 645.253 Licensees affiliated with same brokerage: Additional duties when assigned to separate parties to real estate transaction. If a real estate broker assigns different licensees affiliated with his or her brokerage to separate parties to a real estate transaction, the licensees are not required to obtain the written consent required pursuant to paragraph (d) of subsection 1 of NRS 645.252. Each licensee shall not disclose, except to the real estate broker, confidential information relating to a client in violation of NRS 645.254.

NRS 645.254 Additional duties of licensee entering into brokerage agreement to represent client in real estate transaction. A licensee who has entered into a brokerage agreement to represent a client in a real estate transaction:

1. Shall exercise reasonable skill and care to carry out the terms of the brokerage agreement and to carry out his or her duties pursuant to the terms of the brokerage agreement;

2. Shall not disclose confidential information relating to a client for 1 year after the revocation or termination of the brokerage agreement, unless he or she is required to do so pursuant to an order of a court of competent jurisdiction or is given written permission to do so by the client;

3. Shall seek a sale, purchase, option, rental or lease of real property at the price and terms stated in the brokerage agreement or at a price acceptable to the client;

4. Shall present all offers made to or by the client as soon as is practicable, unless the client chooses to waive the duty of the licensee to present all offers and signs a waiver of the duty on a form prescribed by the Division;

5. Shall disclose to the client material facts of which the licensee has knowledge concerning the transaction;

6. Shall advise the client to obtain advice from an expert relating to matters which are beyond the expertise of the licensee; and

7. Shall account for all money and property the licensee receives in which the client may have an interest as soon as is practicable.

NRS 645.255 Waiver of duties of licensee prohibited. Except as otherwise provided in subsection 4 of NRS 645.254, no duty of a licensee set forth in NRS 645.252 or 645.254 may be waived.

These provisions of NRS 645 established our "statutory" agency duties. While some suggest these statutes eliminated "fiduciary duties," this author suggests fiduciary duties must still be honored.

- **C**are
- **O**bedience
- **L**oyalty
- **D**isclosure
- **A**ccountability
- **C**onfidentiality

Agency Choices

When choosing the appropriate type of agency relationship, the broker will rely on state law as well as her own policies and procedures. The four most common choices for an agency relationship are:

• single agency	the broker represents the buyer or the seller, but not both
• multiple representation	the broker represents both the buyer and seller in the same transaction
• assigned agency	also called a "designated agency," the broker assigns one agent from the firm to represent the buyer and one agent to represent the seller
• transaction broker	the broker represents no one, but merely facilitates the transaction

Transaction Broker: Also called a *facilitator* or *intermediary*, this is a broker who represents neither the buyer nor the seller. In fact, it could be said that the broker represents only the successful closing of the transaction. The broker helps the parties with the paperwork and the ministerial acts – the steps required to close the transaction. In some states, including Nevada, this form of agency relationship is prohibited. The broker is considered to be a *non-agent* but is still obligated to be honest, deal fairly, and disclose all material facts.

E. Following a Business and Risk Management Plan

No doubt, we have all heard the expression, "People don't plan to fail. They fail to plan." In this course, we urge brokers to create a written business plan and share it with the management team. Further, we have become quite the litigious society and real estate licensees are involved in more complaints and litigation than ever before. Because of this, the concept of a risk management plan has become an essential element of most every successful brokerage.

1. Business Plan

   If you were the manager of small business loans at the local bank, what would you think of an applicant for a new business loan who had no plan, in writing, to operate his new business? What kind of a business person launches a new business without doing market research, an evaluation of the competition, a marketing plan with sales projections, or a financial plan? As the manager, would you grant the loan to this individual?

   Take the time to develop a business plan for yourself that forces you to commit, in writing, detailed thought about matters such as:

- business overview / mission statement
- business environment
- market research
- competition
- description of your services
- your company's selling points
- benefits your firm brings to your clients
- differentiation
- marketing plan
- sales goals
- advertising and promotion
- marketing materials
- distribution
- marketing calendar
- financial plan
- income projections
- budget for operating expenses
- equipment and technology to purchase
- system for recordkeeping

It seems every HR interviewer asks the question, "Where do you see yourself in five years?" That is a question you will now need a definite answer for. Your business plan should be a road map to where you and your firm will be in five years. Five years consistently seems to be a good span of time to cover in authoring a business plan.

Do not allow the development of a business plan to be a long, onerous project. Doing so may prevent you from completing or even starting the process. This is the "doing your homework" portion of operating your real estate brokerage. It involves really examining your market, researching your competition, and taking an introspective look at your own organization. The plan becomes your set of instructions – your marching orders so to speak – on where you want to go and how you are going to get there, rather than taking a "buckshot" approach at being successful. Continuing to review your business plan and adjusting your course will prove to be highly valuable in growing your business to where you want it to be five years from now.

2. Risk Management Plan

Risk management involves the identification of future, potential risks to the real estate brokerage as well as all associated individuals. It includes a coordinated effort to minimize or eliminate the possibility of undesired events such as litigation. Common areas where real estate practitioners find themselves at legal risk include:

- Agency
- Disclosures or Lack Thereof
- Misrepresentation and Fraud
- Unauthorized Practice of Law
- Violation of Federal Laws
- Violations of State Real Estate Licensing Laws and Regulations

Recommendations for a Risk Reduction Plan

Broker-owners should develop a plan to address risk management and continue to implement such a plan. Components of a sound risk management plan include:

- Documentation
- Policies and procedures
- Education via training classes and sales meetings
- Errors and omissions insurance
- Transaction management

Documentation: By the time an aggrieved consumer files a complaint with the Division, the Division investigates the matter, a hearing is held or possibly the case goes to court, many months may have passed and the licensee's memory and recollection of the facts could easily be foggy. Having excellent notes, copies of all paperwork and correspondence and emails, a phone log, and other documentation as applicable will prove to be lifesaving.

Policies and procedures: As addressed earlier, brokers who utilize a well-written manual are actually communicating to all licensees the company's stance on legal matters and are providing instructions on how to operate legally, ethically, and professionally. Licensees should be required to report to management any indicators of a potential formal complaint immediately. It then becomes incumbent upon management to act swiftly and document everything.

Education via training classes and sales meetings: Also mentioned earlier Brokers who continually train and update their licensees on these potentially risky subject areas are implementing a component of a risk management plan. As you glance at the list of common risk areas, you may be reminded why our Commission adopted regulations requiring core continuing education courses in these areas. Maintaining excellent records of the education that was provided and when will certainly prove to be helpful in demonstrating the broker has fulfilled the obligations of "teaching" and "supervision." Keep a file of all training calendars, course outlines, sales meeting dates, and sales meeting agendas. Ongoing education is imperative as a risk reduction strategy.

Errors and Omissions Insurance: Errors and omissions insurance is designed to protect the brokerage in the event of a substantial lawsuit and can be purchased from any number of providers. Read and compare policies carefully as there can be huge differences in coverages. Staying with the same insurer for repeated years and maintaining a track record of no filed claims will more than likely lead to pricing advantages. Evaluate the benefits of a larger deductible. The broker will also want to examine what acts are excluded such as misrepresentation, fraud, or a licensee's personal transactions.

Transaction management: The broker, manager, or a qualified individual should be reviewing all transactions performed by licensees. Some firms hand-check office files while others use transaction management software. There should be established policies and procedures pertaining to transaction management including who reviewed the file, when, and how often. What are the required documents for each listing, buyer brokerage agreement, sale, and rental? What is the procedure when a required document is missing or incomplete? Were the appropriate disclosures tendered in a timely manner? Did clients receive copies immediately upon signing or within a reasonable time thereafter? Again, if the firm can demonstrate a transaction management system is in place, that will become essential in the firm's defense in the event of litigation. The goal for such a system is to avoid such litigation altogether.

F. Turning a Profit while Offering Attractive Associate Commission Plans

Obviously, we would not go through the pain of operating a real estate brokerage firm without any regard to profitability. The broker owes it to herself and to those who affiliate with her to be profitable and successful. So how do we improve the profitability of our brokerage?

We might consider:

Gross Income
- <u>Operating Expenses</u>
Net Operating Income
- <u>Debt Service and Taxes</u>
Profit

One way to improve profitability is by increasing the gross income. But how?

- increase sales
- recruit more sales associates
- increase commissions and fees
- expand into ancillary services

It is wise to continually examine operating expenses.

- renegotiate rent / consider other space
- review commission splits / agent compensation
- evaluate salaries and benefits
- shop E&O insurance or increase deductibles
- examine usage of utilities
- pass some expenses on to sales associates

The broker will also want to reduce debt service perhaps through refinancing or debt consolidation. She may also want to question her tax preparer to make sure she is getting every available tax advantage.

In her article, *Five Top Ways to Increase Real Estate Brokerage Profitability,* Susan Kirkpatrick states:

“Increasing the profitability of your brokerage should be one of the main components of your plan. Why? Because the most brilliant strategy and tactics are of little use if your brokerage does not support or cannot execute them. Here, are the five top ways you can increase profitability in your firm. . .

1. Increase your Brokerage Commissions

No matter how you look at it, this is the easiest way for many brokerages to increase profits. But wait! Don’t I have to do the “standard” 6% commission? First, we all know there is no standard commission rate, yet brokers get very flustered with the prospect of raising their commission rates. Real Estate brokerages are no different than other service type businesses in determining a profitable price for their services. . .

There are millions of brokerage owners that don’t know how to set prices for their services, trusting their competitors or the government or luck to do their thinking for them. Brokers believe commission rates are imposed on them, but there is always an opportunity for liberation from group mind-think! Brokers tend to think they are in an industry in which everyone charges the same thing for the same services; therefore, they don’t need a pricing strategy. And this is precisely why they need a pricing strategy – not every real estate firm provides the same services or quality of service or added-value service.

2. Cut Expenses by 10% Right Away

Many brokerage owners misuse the word expense when they talk about buying buildings or equipment; these are assets. There is a cost for acquiring an asset. The depreciation of those assets is an expense. Costs of making or buying assets are not expenses; they are the costs of the assets acquired. Expense means you gave up something of value to get revenue. So here, we are talking about expenses to get revenue.

Some brokerages think they are running lean, and there is no waste. A quarterly expense analysis is beneficial to every business. It confirms whether the "no waste" myth is true or sheds light on areas that can be improved. An expense analysis shows where the firm is spending – over or under – and it leads to better questions surrounding the daily costs and investments to confirm that those costs and expenditures are generating a return for the brokerage. These costs include payroll, software, internet, phone, promotion costs, education and travel, materials and supplies, dues and subscriptions, etc. Once expenses are identified as necessary to maintain the standard of service, then confirm the brokerage is getting the most from these expenses. Once these essential expenses are confirmed, it's easier to say goodbye to unused subscriptions, selling expenses purchased for one client, underused staff, or any other excess spending.

3. Determine your "Breakeven Point"

To control costs and plan for profitability, the brokerage must know the actual expenses and revenue in real-time and create standards on how to gauge present performance. Using past revenue/expense/profit data can help set the budget for planned profit in the future.

There are two types of expenses . . . – variable and fixed. Production causes variable expenses. No production; no expense. Commissions, fees, overrides are all dependent on Gross Commission Income (GCI); therefore are variable expenses. Fixed expenses are not caused by production and occur whether anything is sold or not: sales management salaries, advertising, communications, rent, property taxes, auto expense, insurance, etc. However, fixed costs don't always stay "fixed," such as when the brokerage grows to a point where it needs another salaried employee or advertising increases because the brokerage decides to go for growth at any cost. And variable expenses – commissions and selling expenses – can escalate if the brokerage has an inadequate compensation plan.

The firm breakeven point is the lowest amount of income required to cover all expenses. Since you want to make a profit, you should allocate a percentage for profit in calculating the breakeven point.

4. Re-design your compensation plan(s)

After compensating your sales associates, if the brokerage doesn't have enough money left to pay its expenses (overhead) and make a reasonable profit, it won't be in business for long. Commissions comprise the largest expense and have a direct effect on the profits of the brokerage. Many firms find they don't have enough cash from GCI to cover expenses after paying sales commissions, so they resort to stealing the company profits or going into debt.

Your compensation plans should be personalized to meet the firm's goals and the needs of its sales associates. A custom plan will take into consideration the brokerage breakeven point and the sales associate breakeven point. This associate breakeven point is where the sales associate earns enough revenue for the brokerage to cover the sales associate's share of company expenses.

It's best practice to establish the sales associate's breakeven point well below their expected revenue production, so if their production drops, it does not drop below the associate's plan breakeven point. Your compensation plan is critical in guaranteeing your firm's profitability.

5. . . . Create an effective marketing strategy to increase profits

Another essential way to increase profits is with an effective marketing strategy that attracts new customers, optimizes the value of customers, and rescues lost customers. Before making any significant

decisions on future commitments in marketing and advertising, brokers must analyze their past efforts to see if they were cost-effective and provided a return.
Brokerages should have a 12-month marketing strategy plan, which includes an analysis of the costs to obtain listings and buyers for those listings. Also included in the plan is the average number of listings, the total number of associates along with each of the associates' conversion rates from listings to sales.

First, calculate the Average Revenue per Listing per Associate. This measurement gives a "blink-of-an-eye" look at how well or how poorly the selection of customers, sales processes, and associates are doing overall, against the same time prior year or even during certain seasons, special promotions and events. Increasing the Average Revenue per Listing per Associate is a great way (but often overlooked) actually to increase revenue.

The next calculation is Customer Value (CV) – analyzing multiple transactions and buying behavior of customers over some time. In determining CV, you can segment "customer lists" into A, B, and C level customers to invest in them and communicate with them differently. It also helps source customers better by watching where "A" customers (buyers or listings) came from and from where "C" customers came. It also evaluates the value of customers for each sales associate. If you want to delve even deeper, you can look at the amount of service required of A customers versus C customers, therefore "firing" those customers (listings) that cost you money to keep.

Lifetime Customer Value (LCV) is another number that brokers have a hard time accepting. Even though some "sellers" usually move out of the market area, so those customers are least likely to have more value than the one-time sale (not accounting for any future referrals). However, many real estate customers will own multiple properties, or they are investors in residential homes for re-sale. Also, an "LCV" calculates new buyers based on the future sale of their property. This number ultimately controls decisions about what to invest in obtaining customers (listings & buyers). Knowing this number keeps the brokerage keenly aware of the costs of losing a customer (listings & buyers) and helps determine what you are willing to invest in keeping them."

G. Abiding by Federal and State Laws as well as the Code of Ethics

1. Federal Laws – Matching Game
   a. Civil Rights Act of 1866
   b. Fair Housing Act of 1968
   c. the Americans with Disabilities Act
   d. Consumer Credit Protection Act, Truth-In-Lending Act, Regulation "Z"
   e. Equal Credit Opportunity Act (ECOA)
   f. Real Estate Settlement Procedures Act (RESPA)

2. Test your knowledge by matching the federal law with the correct intent of the law:

____ Civil Rights Act	A. to prohibit discrimination in lending based upon certain classes
____ Fair Housing Act	B. to add additional protected classes to existing discrimination law
____ Americans with Disabilities Act	C. requires the disclosure of the APR
____ Consumer Credit Protection Act	D. to prevent discrimination on the basis of race or color in housing
____ Equal Credit Opportunity Act	E. to inform the client of closing costs and prevent kickbacks
____ Real Estate Settlement Procedures Act	F. prevents discrimination against vision impaired, confinement to wheelchair, or hearing impaired

The Civil Rights Act of 1866 provided that all persons born in the United States are declared to be citizens, regardless of race or color, and shall have the right to enter into contracts, to sue, inherit, acquire and dispose of property, and shall equally benefit from the law as do white citizens. Classes protected by this law were race and color.

The Fair Housing Act of 1968 protected four classes or classifications of Americans. Race and color from 1866 and in 1968 covered religion and national origin. Gender was added in 1974 and family status and disability were added in 1988.

The Americans with Disabilities Act primarily deals with physical workplace accommodations for disabled persons. Real estate agents are advised to have an overall understanding of the law and its requirements especially if dealing with landlords and tenants.

The Consumer Credit Protection Act, Truth-In-Lending Act, and Regulation "Z" combined efforts to prevent the potential for the abuse of a borrower by a lender, together with actual abuses which were occurring in the market. The principal purpose of these laws is to provide the consumer with complete and understandable credit information so the consumer can make informed credit decisions. The disclosures and components required by these laws are:

- Finance charges
- Annual Percentage Rate
- Advertising Restrictions
- Three (3) business day right of rescission (on some loans)

The Equal Credit Opportunity Act provides equal access to financing needed and prohibits discrimination in lending based upon certain protected classes.

The Real Estate Settlement Procedures Act's primary purpose is to inform the parties to a covered real estate transaction what the closing costs and charges are, and which costs they pay for. The primary motive behind RESPA is to expose any *kickbacks* which may be occurring.

2. State Laws

   A. NRS 645.630 - The Commission may require a licensee to pay an administrative fine of up to $10,000 for each violation and/or suspend, revoke, deny the renewal of or place conditions upon his license if found guilty of:

      1. Misrepresentation.
      2. Fraud.
      3. Accepting a commission or valuable consideration from any person except the licensed real estate broker with whom he is associated.
      4. Representing a real estate broker other than the employing broker.
      5. Failing to maintain brokerage and property management agreements.
      6. Failing, within a reasonable time, to account for or to remit any money which comes into his possession and which belongs to others.
      7. If he is required to maintain a trust account, failing to balance the trust account at least monthly; and failing to submit to the Division an annual accounting of the trust account.
      8. Commingling or conversion.
      9. Failing to place in the custody of his licensed broker as soon as possible, any deposit or other consideration.
      10. Taking something other than cash as earnest money unless communicated to and accepted by the owner.
      11. Upon acceptance, a broker, failing to deposit any check or cash received as earnest money before the end of the next banking day unless otherwise provided.
      12. Inducing any party to break an agreement to substitute a new one for personal gain.

   B. NRS 645.633 Violations: Additional grounds for disciplinary actions, subject to the same actions referenced above:

      1. Using a trade name, service mark or insignia of membership in any real estate organization of which the licensee is not a member, without the legal right to do so.
      2. Violating NRS 645 or other laws or regulations.
      3. Paying compensation to an unlicensed person.
      4. A conviction of, or the entry of a plea of guilty, guilty but mentally ill, or nolo contendere to a felony relating to the practice of the licensee or any crime involving fraud, deceit, misrepresentation or moral turpitude.
      5. Guaranteeing future profits.
      6. Failure to include an expiration date in any written brokerage agreement or failure to leave a copy of such an agreement with the client.
      7. Undisclosed commissions or profits.
      8. Gross negligence or incompetence.
      9. Deceitful, fraudulent or dishonest dealing.
      10. Any conduct before licensed which would have been grounds for denial of a license.
      11. Knowingly permitting any person whose license has been revoked or suspended to operate.
      12. Filing a frivolous claim for a commercial commission against the owner.

   C. NRS 645.635 Violations: Additional grounds for disciplinary actions, subject to the same actions referenced above:

      1. Offering real estate for sale or lease without the knowledge and consent of the owner.
      2. Negotiating with a client knowing that the client has a brokerage agreement in force with another broker.
      3. Failure to deliver within a reasonable time a completed copy of any purchase agreement or offer except as waived pursuant to NRS 645.254.

4. Failure to deliver to Sellers, within 10 business days after the closing, a detailed closing statement showing all receipts and disbursements; failure to deliver to the Buyers a complete statement showing all money received in the transaction from the buyer and how and for what it was disbursed. The furnishing of those statements by an escrow holder relieves the licensees responsibility.
5. Representing or preparation of false documents, price and terms.
6. Failure to produce records under investigation by the Division.
7. Failure to reduce a bona fide offer to writing where a proposed purchaser requests that it be submitted in writing except as waived pursuant to NRS 645.254.
8. Failure to submit all written bona fide offers to a seller if received before the seller is in contract unless waived pursuant to NRS 645.254.
9. Discrimination.
10. Knowingly submitting any false appraisal.

NRS 645.645 Violations: Additional grounds for disciplinary actions, subject to the same actions referenced above:

1. Misrepresentation of home warranties.
2. Misrepresents the provisions of the contract.
3. Misappropriates any fees for home warranties.

D. NAR Code of Ethics

Duties to Clients and Customers

Article 1:	Protect the best interests of the client.
Article 2:	No misrepresentation, exaggeration, or hiding facts about the property at hand.
Article 3:	Realtors should cooperate with each other unless it's not in the best interest of the client.
Article 4-5:	Disclose any personal interest in a property.
Article 6-8:	No recommending services for a kickback or collecting money under the table. Keep client funds separate from your own.
Article 9:	All documents pertaining to the transaction should be presented to the buyer/seller in understandable terms.

Duties to the Public

Article 10:	No denying services on the basis of discrimination.
Article 11:	Provide clients with competent services only within a Realtor's professional scope.
Article 12:	No false or misleading advertising.
Article 13:	Don't break the law.
Article 14:	Cooperate with the Realtor board's investigative proceedings if charged with a violation.

Duties to Realtors

Article 15:	No false or misleading statements about other Realtors.
Article 16:	Don't solicit clients that have already signed an exclusive listing agreement with another Realtor.
Article 17:	Contractual disputes will be mediated or arbitrated by the Realtor Board.

H. Potential Disciplinary Actions from the Division or REALTOR® Organization

1. NRS 645.630 Violations
   The Commission may require a licensee to pay an administrative fine of up to $10,000 for each violation and/or suspend, revoke, deny the renewal of or place conditions upon his license.

2. REALTOR Org
   - issue a letter of warning
   - fine as much as $15,000
   - require attendance at relevant education session
   - membership suspension up to 1 year
   - termination from membership up to 3 years
   - referral to the Division

10-QUESTION QUIZ

1. In addition to the college credit requirements for brokers and broker-salespersons, applicants must have completed a Nevada-approved broker course of how many hours?

   a. 30
   b. 36
   c. 45
   d. 90

2. Broker-applicants must show the financial capability to sustain the expenses of operating a brokering firm in Nevada for what period of time?

   a. 90 days
   b. 180 days
   c. 365 days
   d. two years

3. Broker-salesperson applicants must demonstrate what number of years of experience?

   a. 1
   b. 2
   c. 5
   d. None of the above

4. Brokers are required by Nevada law to:

   a. educate associated licensees and keep them informed.
   b. develop a policies and procedures manual.
   c. teach and enforce ethical practices.
   d. All of the above

5. According to NRS 645.252 regarding Agency, every licensee shall disclose to all parties all of the following EXCEPT:

   a. material and relevant facts.
   b. amount of compensation being earned.
   c. the licensee's interest as a principal.
   d. that the licensee is representing both parties in the transaction.

6. The concept of "designated agency" is most likely to be relevant in which type of transaction?

   a. in-house sale
   b. co-broke transaction
   c. the listing agent is also the owner
   d. All of the above

7. The duty of confidentiality of client information lasts for how long in Nevada?

   a. until the close of escrow
   b. until one year from termination of the agency
   c. for 10 years
   d. forever

8. Gross income minus operating expenses equals:

   a. net operating income.
   b. potential gross income.
   c. debt service.
   d. after-tax income.

9. Which of the following federal laws prohibits discrimination in lending practices?

   a. Real Estate Settlement Procedures Act
   b. Regulation Z
   c. Equal Credit Opportunity Act
   d. Americans with Disabilities Act

10. The Nevada Real Estate Commission can sanction a licensee with a fine of up to $____________ per offense of Nevada licensing laws.

   a. $5,000
   b. $10,000
   c. $25,000
   d. $50,000