



Double Ending: Double Trouble for REALTORS®?

You are a designated client representative for a seller. An unrepresented buyer walks into your open house or contacts you directly to discuss your listing. Should you work with both the buyer and the seller in the same transaction?

Careful consideration of this scenario is essential as more unrepresented buyers may approach listing brokers directly due to legal pressures that challenge how brokers receive compensation.

While you should always review your own office policies regarding these circumstances, this guide is intended to help you navigate the options and obligations surrounding this complex situation.

OPTION 1: Refer Buyer to a Colleague

Offering to introduce the buyer to someone in your brokerage, who can advise as a designated client representative, is an option. Clearly express to the buyer that your colleague will never share information about them with you without their permission.

OPTION 2: The Transaction Facilitator

You can offer to collaborate with the buyer as a Transaction Facilitator. The buyer must sign the Mandatory Real Estate Relationship Disclosure form. You must clearly state that your loyalty is to the seller, and you cannot advise or negotiate on behalf of the buyer. The buyer also must understand that you will not respond to questions counter to your fiduciary duty to the seller such as “How much do you think this house is worth?” and that legally you must disclose to the seller whatever the buyer says to you.



OPTION 3: Proceed as a Dual Facilitator

The option to function as a neutral Dual Facilitator for both the buyer and the seller poses the greatest liability for brokerages. Without transparent communication, this relationship can lead to conflicts of interest and leave both buyer and seller feeling underrepresented.

Before proceeding, understand your obligations:

- ◇ Did both buyer and seller sign a separate Mandatory Real Estate Relationship Disclosure indicating that you are now a client representative for each of them in this transaction?
- ◇ Does each party understand that your relationship with each of them will change and that you must remain neutral to any conflicting interests between them?
- ◇ Do both parties understand that legally you will not be able to answer speculative questions or breach fiduciary responsibility to either buyer or seller?
- ◇ Are you capable of providing unbiased, comparable service to both the buyer and the seller in various circumstances? For example, when your personal relationship has already been established with other transactions, or when dealing with a first-time home buyer.

You have decided to become a Dual Facilitator: *A Must Do Check List*

- ◇ Make sure that both the buyer and the seller receive separate Mandatory Real Estate Relationship Disclosure forms that designate you as the client representative for each party individually.
- ◇ If your brokerage permits Dual Facilitation, make sure you discuss with buyer, seller, landlord and/or tenant, the possibility that Dual Facilitation could occur as required by Article 1 of the REALTOR® Code of Ethics.
- ◇ If a buyer client becomes interested in your listing and you are the designated client representative for the seller, notify both parties that Dual Facilitation is about to occur. Then obtain their informed consent that ensures that each party understands all the risks and benefits of Dual Facilitation. It also acknowledges that you no longer function as an advocate for either but will also not disclose confidential information.
- ◇ If the buyer and seller agree, provide them with a Dual Facilitation Consent form. Your broker must also sign this form and oversee the transaction as its coordinator.

For more information, please contact the RI REALTORS® Legal Department at 401-432-6945 or email monica@rirealtors.org.