



BuchalterNemer
A Professional Law Corporation

Current Developments In Risk Management For Mortgage Brokers

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Webinar

Buchalter Nemer

1000 Wilshire Boulevard, Suite 1500

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1. Licensing
2. Advertising
3. Forms
4. Errors and omissions insurance

Defining the Broker's Relationships



1. Agency roles and written acknowledgments (determined by the scope of the agency)
2. Broker as agent of borrower
3. Broker as agent of lender
4. Broker as agent of borrower and lender
5. Broker as principal
6. Broker as independent contractor to wholesale lender
7. Cooperating brokers
8. Middlemen or finders

The Broker's Duties - General



1. The “evolving transaction” (*when the roles of the parties, or the intent of the principals, changes during the deal*)
2. Duty to disclose material facts which might influence the principal’s decision
3. Duty to disclose potential conflicts of interest
4. Duties to elderly borrower (what to look for and diminished capacity)
5. Disclosures (*avoiding wrong or misleading disclosures*)
6. Underwriting
7. Cost-effective or falling below the standard of care

1. Emails: *if you knew your email was destined to be Plaintiff's Exhibit 1 to a lawsuit - do you still feel comfortable clicking "send"?*
2. Reverse Owner Occupancy Fraud (*verbal statements vs. documents - when borrowers lie about occupancy*)
3. Consumer Loan or Business Purpose
4. Private Money Investors
5. Construction lending/staged transactions

1. Escrow and Title “companies” (*insurer, underwritten or independent*)
2. Title insurers
3. Appraisers
4. Notaries (*the dirty little secret*)
5. Credit reports (*what credit reports tell you vs. what title insurers will claim they tell you*)

1. Loan servicing
2. Loan modifications (residential)
3. Loan modifications (commercial)
4. Post-closing problems (fraud, forgery and fund diversion)
5. Repurchase demands
6. Think you have a problem? (*Should I get a second opinion?*)

Conclusion



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