

# Ethics In Real Estate Practice

Mortgage Lending Institute  
Continuing Legal Education Program

University of Texas School of Law

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# Fiduciary Duty

- As an attorney, as a matter of law, you owe your client a fiduciary duty.
- This fiduciary duty is one of the highest duties found in the law.

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The pattern jury charge instruction that will be submitted to the jury on breach of fiduciary duty is as follows:

## JURY QUESTION

Did the defendant lawyer comply with his fiduciary duty to the client?

As the client's attorney, the attorney owed a fiduciary duty to the client. To prove the attorney complied with his duty, the attorney must show:

- 1) the transaction in question was fair and equitable to the client;
- 2) the attorney made reasonable use of the confidence that the client placed in the attorney;
- 3) the attorney acted in the utmost good faith and exercised the most scrupulous honesty toward the client;
- 4) the attorney placed the interest of the client before the attorney's own interest, did not use the advantage of the attorney's position to gain any benefit for himself at the expense of the client, and did not place himself in any position where his self interest might conflict with his obligations as a fiduciary; and
- 5) the attorney fully and fairly disclosed all important information to the client concerning the transaction.

Answer: \_\_\_\_\_

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First appeared as part of the conference materials for the  
55<sup>th</sup> Annual William W. Gibson, Jr. Mortgage Lending and Servicing Institute session  
"Ethics in Real Estate Practice"