

Are You Smarter Than a Fifth Grader?

I do think I am smarter than a fifth grader – but when I watch the show I grasp for answers I should know. The problem for me is that I just can't remember that far back. So here are some true or false fifth grader equivalent agent questions (that is, they are pretty basic and we've taught them before, so let's see how many you remember). Answers are on page _____.

1. A contract must actually be delivered to the other party before you can consider it fully ratified and binding (hint: think verbally, not orally).
2. A durable power of attorney survives death, so you can take a listing from the attorney-in-fact (hint: I underlined durable).
3. A client can require a settlement agent not to pay a commission (hint: who is the client?).
4. If no termite letter is required by the contract, a listing agent need not disclose a bad one previously obtained (hint: speak no evil if evil not required?).
5. You cannot seek to alter compensation in an offer (I just wrote an article on this, what did I say?).
6. Technically, you can no longer sell a house "As Is" (for bonus points, can you sell "Where Is"?)
7. It is okay not to put a charge on the HUD-1 as long as the lender approves (hint: I underlined lender).
8. NAR is headquartered in Washington, D.C. (hint: I've been there, done that).
9. A VREB regulatory violation is always a Code of Ethics violation (I'll win either way, but I charge more to go to Richmond).
10. A special warranty deed promises that the seller will defend title for a limited period of time only, usually 15 years. (Heh, perhaps I underlined promises just to trick you).

Please feel free to email at bdlytle@lytlelaw.com if you have any questions or have a topic to suggest for a future article.

Legal Corner

Answers to Are You Smarter: All of the answers are false. 1. We continually preach offer, acceptance, and communication of acceptance. It isn't delivery unless the contract modifies the basic rule and actually requires delivery. 2. A power of attorney always terminates at death – "durable" means that it survives incompetency. 3. Under the Wet Settlement Act settlement agents are obligated to pay, and run the risk of treble damages should they not. See *Wainwright v. Sykes*, 71 Va. Cir. 51 (2006). 4. Va. Code § 54.1-2131(B), which requires the disclosure of material adverse facts, is not restricted by the contract. 5. Arghh if you didn't read January's issue – in short *you* can't, but *your client* can. 6. Of course you can, but you need to seriously modify the REIN contract in order to do so – don't just write "AS IS" in paragraphs 11 or 18 and think that does it. 7. Never, ever, is it okay to deliberately keep charges or consideration incidental to a deal off a HUD-1. 8. Chicago, Illinois. 9. This is close, but recall there are many VREB administrative provisions, and I don't think a violation of one of those would violate the Code of Ethics. 10. Nope, it does not relate to time, rather it relates to the fact that the seller warrants only that the seller did not create any title defects, as opposed to a general warranty, which promises no title defects regardless of fault or source.