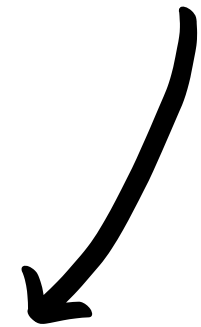


"10 Things"



Every REALTOR® Needs to be Thinking About in 2022

Legal & Regulatory
Considerations
Impacting
REALTORS® (And
other fun stuff...)

Presented By
Scott Peterson, ESQ.
CAR General Counsel

"10 Things" Overview - 7th Annual!



- Overview of 10 different legal/risk management topics impacting REALTORS®
- High level ("30,000 foot") view on these topics
8-15 minutes per topic
- 2 Hours of CE – No Breaks...tough luck!
(Feel free to go potty as needed!)

"10 Things" Topic Sources



- Legal Hotline/State and Federal Regs/New Legislation/Odd Things I want to talk about!
- CAR Resources: Hotline/Legal Bites/Colorado Realtor Magazine/NAR & CAR Websites
- Ask Questions – **Don't Fall Asleep!**



Thing #10

Cash Money!

Fat Stacks

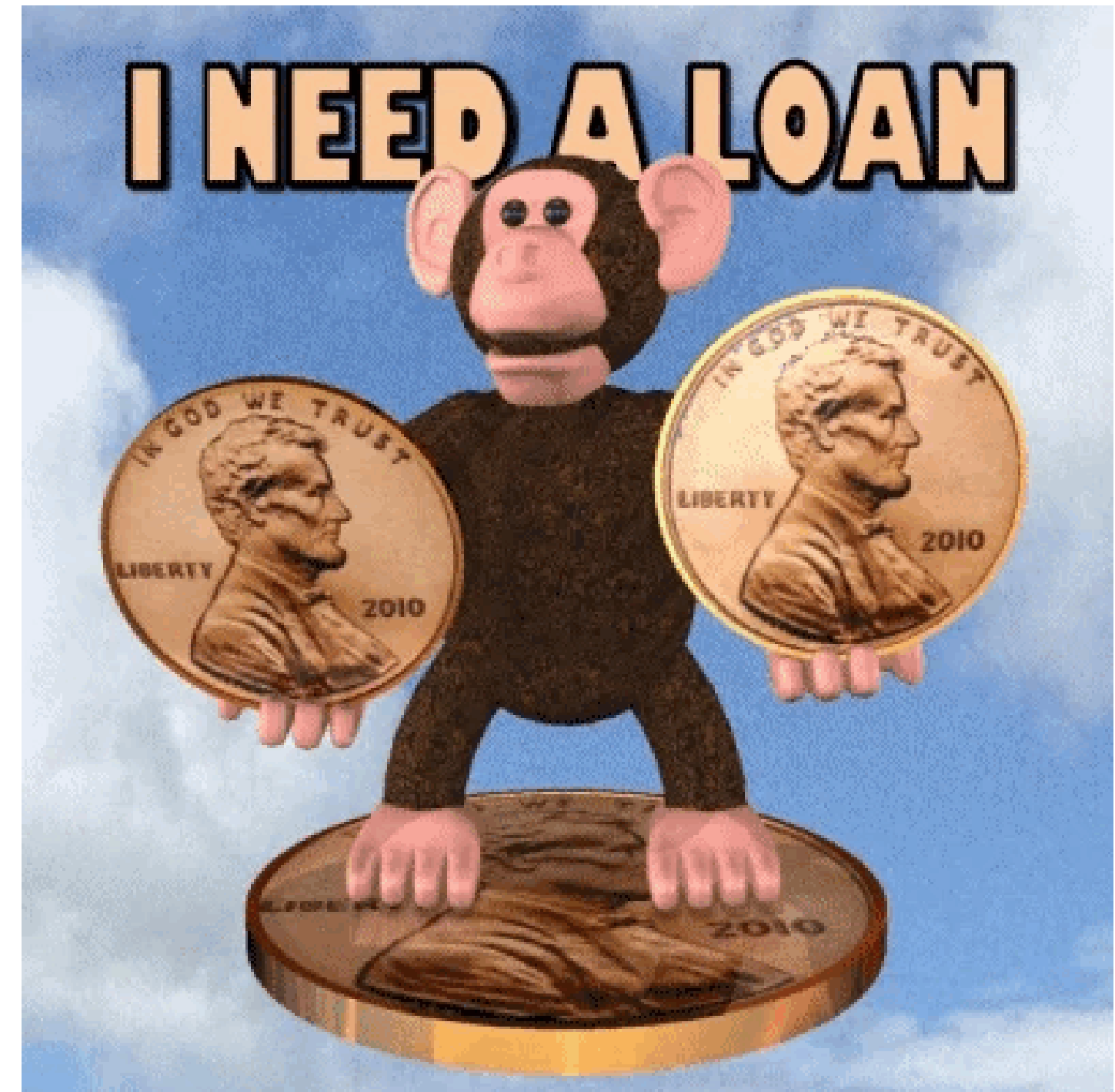
for Homes



- Competitive market = cash offers!
- What is an “**ALL Cash**” offer?
 - “Cash at closing”
 - Paragraph 4.4.3 (Available Funds)
- Waiving loan contingencies vs. cash purchase (Appraisal!?)
- Disclosure of Intentions?
 - Good faith
- Buyer “Changes mind” (Paragraph 4.5.2)
 - On Loan?
 - On lender?

Thing #9

Loan Deadlines - Terms vs. Availability (And How to Use!)



- CREC Contract – New Paragraph 5!
 - Paragraph 5.2.1 – Loan **terms**
 - Payment/interest/conditions/cost
 - Paragraph 5.2.2 – Loan **Availability**
 - Lender review/underwriting
- Important negotiated point!!



- When do I set the deadlines?
 - Buyer?
 - Seller?
- What proof do I need?
 - Loan terms?
 - Loan availability?
- What Loan availability Is not!
 - Appraisal / Property / Requirements / Conditional Sale
 - Good faith?



Thing #8

Secret Agent Man

**TB vs. Agency
(And why you
should be an
agent!)**



- 12-10-402 C.R.S.
 - Agent = engaged by and represents only one party in a transaction – “promote interests with utmost good faith, loyalty & fidelity”
 - T.B. = assist one or more parties – “without being an agent or advocate for any party”
- Brokerage Disclosure = only T.B.

(12-10-408(2)(A)(III)) – Any additional duties or obligations beyond TB must be disclosed in writing to all parties!



- Agency established only through ERS / ERB
- What happens in the real world??
 - Price too high!!!
 - Help you “win this deal!”
 - Seller motivated!
 - I think we can offer less (need to offer more)
- Advocacy & Advice & Loyalty & Fidelity



How to be what you really are!

- Your clients want an agent!!
- Get more exclusive rights agreements signed!
- Compete against transaction brokerage
 - Advocacy & advice & loyalty & fidelity
- Protect yourself and secure your commission!

Thing #7

Who Stole the Kitchen Table?

High Impact Contract Review!



Doing Business in a high tech / high velocity / light touch real estate world

- CTMe /Ink/Slope
- Multiple offers
- Crazy (and long) clauses
- Virtual engagements
- Distracted clients



Best Practices

- Client understands what they are signing! (CBS/ERS/ERB/SPD/provisions/etc.)
- Realtor understands what they are writing / accepting!
- Protocols & systems in place to explain (and document!)?
- REAPS & Other support / management
- Adapt to client needs (everyone different)
- Take a breath!!!





Thing #6

Somebody's Watching Me!

Cameras in Real Estate..



Emergence of cameras!

- Privacy Issues (seller)
 - Eavesdropping? (audio)
 - Reasonable Expectation of Privacy? (video)
- Confidentiality issues (buyer)
 - Deal advantage?
 - Reveal motivations?
- Regulatory issues (broker)
 - Property access complaints
 - Competency?
 - Fair housing?

BEST PRACTiCE



Best Practices...

- Listing REALTOR®
 - Have a conversation
 - Threshold advisory
- Buyer REALTOR®
 - Have a conversation
 - Shut up!!!!
- All REALTORS®
 - People are watching!
 - Commission rule 6.16 (access sharing)
 - COE Article 1 & ERS 9.2.2

Thing #5

Where the Hell Am I? -

Geographic Competency



Competency vs. Inconvenience vs. Annoyance

- Commission Rule 6.2
- Seller Agent Fiduciary
- COE Article 3 (Cooperative)
- COE Article 11 (Competent)
- Do your Job!
- Payment of Commissions
- Flat Earth!!
- Buyer Broker Beware! (STR/Metro Districts/etc.)



Thing #4 Already?

**2023 Contracts
(and other
fun stuff!)**





NEW

New!!! (Maybe...)

2023 Form Changes

- Sellers Property Disclosure
 - No, you're not getting what you want!
- ERS / ERB

NEW FORM...

- Lease Assignment!



Revised!!! (Maybe...)

- Real Estate Commission Position Statements!
 - Updated
 - Condensed
 - Bolder
 - Sexier
 - **More Edgier!**

Thing #3

As the World Turns...An Anti-Trust Update



No Numbers!

Our industry and its practices are under a very public microscope!

Pending Matters:

- Moerl / Sitzler / Leeder
- DOJ / FTC Investigation
- NAR v. DOJ – Agreements must be relied on!



Other Stuff to Think About...

- Syndication of Coop Commissions
- Elimination of "FREE"
- Group Boycotts
- Use your HEAD!
- Competition.realtor
 - Resources/FAQs/industry justification





Thing #2

Adapting to Change -

Emerging Real Estate Technologies



The Only Constant is Change...

- Crypto
 - Is it really “crypto”?
 - Stablecoin – pegged to currency
- Blockchain – shared ledger (immediate proof!)
 - Recording
 - “Smart” Contracting
- Emerging Business Models
 - Flat fee
 - Menu options (no limited service!)
 - Any buyer is a cash buyer!

Thing #1

Respect Yourself...

Dammit!



What do you do?!?!

- Technology
 - Cameras
 - Data
 - Emerging Business Models
- Commitment
 - Offer after Offer
 - 26 Offers!?
- Value Proposition
 - Extra Mile
 - Add Value
 - Education
 - **GAS!!!**

**Best practices...VALUE
WHAT YOU DO (AND
SELL IT!!)**

Thank you!



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