**CHAPTER 17-AGENCY LAW**

**TRUE/FALSE**

1. Larry decided to relocate to Germany. Larry hired Happy Homes, Inc. to find a buyer and contract for the sale of his house in the U.S. The agency relationship between Larry and Happy Homes must be evidenced with a written agreement.

2. If Denise is hired to work as a cashier, she has the implied authority to do acts reasonably necessary to carry out her job.

3. Erica's supervisor told her to arrange for a conference room at the Kelly Inn. Erica has express authority to contract for the room.

4. An agent must obey all instructions of the principal.

5. Jolene hired Lacy to find a buyer for her house. Adam was interested in buying the house. If both Jolene and Adam agree, Lacy, a real estate agent, may represent both parties.

6. As a general rule, an agent is liable on contracts entered into on behalf of a fully disclosed principal.

7. You cannot be held liable for the actions of your agents if the agents are violating your instructions.

8. If apparent authority is present, the principal is liable for even the unauthorized acts of the agent.

9. The death of an agent automatically terminates an agency relationship.

10. Generally, either party to an agency relationship has the power to terminate it at any time.

11. Rob agrees to act as an agent for Diane in selling her car. Diane has a duty of loyalty to Rob.

12. Kaiya is a sales representative of TriColor. Kaiya owes a fiduciary duty to TriColor.

13. A principal must indemnify an agent for any expenses incurred in carrying out agency responsibilities, but the principal will not be responsible for indemnifying an agent for any expenses not expressly authorized.

14. An agent cannot disclose nor use for their own benefit any information they learn during the agency

15. An agent is always liable for his or her own torts committed within the scope of the agency relationship.

**MULTIPLE CHOICE**

1. Which of the following persons is an agent?

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| a. | Diane, a shoe salesperson for a retail store. |
| b. | Tim, a real estate broker for a large real estate company. |
| c. | Craig, a telephone marketing employee. |
| d. | All the above. |

2. Which of the following is not required of an agency relationship?

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| a. | Consideration. |
| b. | Fiduciary relationship. |
| c. | Consent of the parties to act as agent or principal. |
| d. | Control of principal over agent's conduct. |

3. I hire a secretary to run my office. Which of the following does she not have implied authority to do.

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| a. | call someone to repair the copy machine. |
| b. | hire a maid to come in and clean |
| c. | purchase new computers for the entire offices. |
| d. | order donuts for breakfast for all the office employees. |

4. Mohammad was an employee in the new product development department of Estay Inc. Mohammad was directly involved in the development of a new product that Estay intended to launch in 6 months. Estay took great care to keep information concerning the new product a secret. Ceries, Inc., a competitor of Estay, persuaded Mohammad to leave Estay to direct Ceries' marketing department. Which statement is correct?

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| a. | Mohammad can share with Ceries the confidential information he knows about Estay's new product because he was directly involved in its development. |
| b. | Mohammad can share with Ceries the confidential information he knows about Estay's new product because his agency relationship with Estay is terminated. |
| c. | Mohammad cannot share with Ceries the confidential information he knows about Estay's new product because of the equal dignities rule. |
| d. | Mohammad cannot share with Ceries the confidential information he knows about Estay's new product because he has a duty not to disclose confidential information he acquired during the agency. |

5. An agency relationship can be created:

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| a. | by the conduct of the parties. |
| b. | only by the meeting of all the standards of contract law. |
| c. | only by a written agreement. |
| d. | all of these answers are true |

6. Ron is the business agent for Kansas Sunshine, a rock band. He is also the agent for another popular Midwestern rock group, City Sand. Ron negotiates a deal with a Kansas City promoter to have City Sand play after a professional football game. The promoter was willing to pay $250,000 for both groups to play after the game; however, Ron talked her into booking just City Sand for $175,000. Given his contract with City Sand, Ron made more money under this arrangement. Has Ron violated his fiduciary duty to Kansas Sunshine?

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| a. | Yes. It appears that Ron put his own interests ahead of his principal's interests. |
| b. | Yes. Ron cannot, under any circumstances, act as an agent for both groups. |
| c. | Both a and b are correct. |
| d. | Neither a nor b is correct since it is very common for rock band agents to represent several groups at the same time. |

7. John hired Tim to sell his house. Which statement is correct?

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| a. | John is Tim's principal. |
| b. | Tim, but not John, can terminate the agency. |
| c. | This illustrates a power coupled with an interest. |
| d. | All the above are correct. |

8. Nikki was an tax accountant with HBR Accounting. Nikki decided to do some tax consulting in the evenings and on weekends. HBR is unaware of Nikki's consulting work. Which statement is correct?

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| a. | Nikki has not breached a fiduciary duty to HBR since her consulting is done after her work for HBR. |
| b. | Nikki has not breached a fiduciary duty to HBR since her behavior does not reflect badly on the accounting firm. |
| c. | Nikki has not breached a fiduciary duty to HBR since Nikki has a contractual relationship with her clients, not her employer. |
| d. | Nikki has breached a fiduciary duty to HBR since she is competing with HBR. |

9. The doctrine of estoppel would most often apply in situations of:

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| a. | implied authority. |
| b. | apparent authority. |
| c. | transaction authority. |
| d. | actual authority. |

10. Cameron, editor of the local newspaper, assigned to Jim the writing of a story about pollution of a nearby stream. Although Jim used reasonable care in gathering and checking his information, unknown to Jim, the story contained a defamatory statement about Maureen. Maureen reads the story and sues Jim for libel. Cameron, who read and published the story:

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| a. | must indemnify Jim for Maureen’s claim. |
| b. | need not indemnify Jim for Maureen’s claim because Jim should have checked his facts more carefully. |
| c. | need not indemnify Jim for Maureen’s claim because Jim breached his duty to obey instructions. |
| d. | can recover damages from Jim for any injury to the newspaper resulting from Jim’s story. |

11. An agent may not engage in inappropriate behavior that reflects badly on the principal. This rule applies to conduct:

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| a. | during working hours. |
| b. | during off-duty time. |
| c. | during both working hours and off-duty time. |
| d. | only by public officials. |

12. Pamela hired Lena to sell her business. Lena:

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| a. | can buy the business as long as the price is fair. |
| b. | can buy the business as long as she qualifies for financing. |
| c. | can buy the business only with Pamela's permission. |
| d. | cannot buy the business under any circumstances. |

13. An agency will be terminated in all but which one of the following situations?

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| a. | The principal and agent agree on an agency relationship to sell a boat, and the boat is sold. |
| b. | A travel agent files for individual bankruptcy under Chapter 13. |
| c. | The agent violates his duty of loyalty. |
| d. | An electrician, an agent of a contractor, has her license revoked. |

14. Janet was employed as a sales representative for Esday, Inc. An appreciative customer gave her a diamond bracelet for all her hard work on a complicated contract. Can Janet keep the bracelet?

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| a. | Yes. The bracelet was given to Janet personally and intended for her. |
| b. | Yes, but only if she discloses the gift to Esday and Esday consents to her keeping the bracelet. |
| c. | No. An agent is not allowed under any circumstances to personally profit as a result of the agency relationship. |
| d. | No. The bracelet is regarded as an unfair trade practice and violates antitrust law. |

15. Chance is a traveling marketing representative for a publishing company. He is an independent contractor. One afternoon while driving to a meeting, he negligently runs a stop sign and causes an accident. Judy is injured. Judy can:

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| a. | hold both Chance and his company liable for her injury. |
| b. | hold the company but not Chance liable. |
| c. | hold Chance but not the company liable. |
| d. | not hold Chance or his company liable for her injury. |

16. Mrs. O'Leary hired Jenna to sell her house in Michigan. She executed a power of attorney in favor of Jenna authorizing her to do "anything and everything associated with the sale of real estate, acting as a prudent person." On May 30, Jenna finalized a deal with Brandon for the purchase of the house. Brandon and Jenna signed the real estate contract that day. Jenna learned the next day that Mrs. O'Leary had died May 29.

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| a. | The contract is void since the agency terminated May 29. |
| b. | The contract is valid since the agency’s purpose was achieved before Jenna was notified of Mrs. O'Leary's death. |
| c. | The contract is voidable at the option of Mrs. O'Leary's estate. |
| d. | The contract is voidable at the option of Brandon. |

17. Jim agreed to show Donna's car to a potential buyer. Donna was not able to be home since she had to attend a meeting. After showing the car, Jim left the keys in it and the car was stolen. Which statement is correct?

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| a. | Jim is an agent of Donna. |
| b. | Jim is not an agent of Donna since he was not paid. |
| c. | Jim did not owe a duty of care in showing the car |
| d. | Jim can sell his car to the buyer who came to look at Donna’s. |

18. Tom, the production manager at Esday, was told by his supervisor to hire Elton, a 15- year-old, to operate an industrial machine. Hiring the 15-year-old violates the child labor laws. Tom:

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| a. | should hire Elton. Tom has a duty to obey Esday's instructions. |
| b. | should hire Elton. Tom has a duty of care to ensure that the government does not discover that Elton is 15 years old. |
| c. | should not hire Elton. Tom has a duty of care and he would not be caring for Elton. |
| d. | should not hire Elton. Tom has a duty to obey Esday's instructions only if they are legal and ethical. |

19. If the agent is disloyal to the principal:

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| a. | the agency agreement automatically terminates and the principal may rescind the transaction. |
| b. | the principal has the right to collect any actual damages sustained as a result of the agent's disloyalty. |
| c. | the principal has a right to recover any profits earned as a result of his agent's disloyal conduct. |
| d. | All the above are correct. |

20. I have an express rule that if any of my sales staff drinks at lunch they are fired on the spot. Jeff one of my salesmen, after a liquid lunch has a wreck and injures Betty. Which of the following is true.

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| a. | I have no liability because Jeff violated my expressed rule. |
| b. | Sales people are independent contractor and I have no liability for his acts. |
| c. | I am liable even thought Jeff violated my rules. |
| d. | lunch is his off time and Jeff does not have to follow my rules. |

21. HBR Accounting hired Denise, to negotiate a real estate deal but wants to keep their name out of the deal until after the closing. Which statement is correct?

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| a. | Denise is an agent and has no liability on the deal. |
| b. | Denise is an agent but has a duty to disclose her principal if asked. |
| c. | Only Denise is liable on the deal |
| d. | Denise shares liability on the deal because HBR is an undisclosed principal |

22. Express authority can be created by:

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| a. | words spoken directly to the agent. |
| b. | conduct. |
| c. | written words given to one person to give to another person, the agent. |
| d. | All the above. |

23. Circus Pizza contracted with Art to run its birthday parties. Art's responsibilities included supervising the children and organizing the games. Circus did not investigate Art's background, which included a history of assaulting children. Art assaulted a 7-year-old girl in the restaurant's kitchen during a birthday party. Circus Pizza:

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| a. | cannot be liable for the damages because Art committed an unforeseeable intentional tort. |
| b. | cannot be held liable for the damages because Art's conduct was not in the scope of employment. |
| c. | may be held liable on the basis of negligent hiring. |
| d. | may be held liable only if Circus actually knew of Art's background. |

24. When a principal is partially disclosed:

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| a. | the agent and principal will be jointly and severally liable on the contract. |
| b. | the agent and principal will be only jointly liable on the contract. |
| c. | only the principal can be liable. |
| d. | only the agent is liable. |

25. Factors influencing whether a servant is acting within the scope of employment include all but which of the following?

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| a. | The act is similar to the one the principal authorized. |
| b. | The act is not seriously criminal. |
| c. | The act took place during hours that the servant is generally employed. |
| d. | All of the answer choices are factors in determining if an act is “within the scope of employment.” |

**ESSAY**

1. Alex worked for years for MegaCorp. During his employment with MegaCorp, he learned a great deal of confidential information and knew that if this information got into the hands of competitors or the general public, MegaCorp could suffer great business losses. Alex claims that he was wrongfully fired by MegaCorp and accordingly he believes he has no obligation to MegaCorp to keep any information he acquired with them as confidential. MegaCorp claims that Alex is under a continuing duty to keep confidential information secret, even though he is no longer with the company. Who is right? Why?

2. A principal is bound by contracts that an agent enters into with authority. Discuss the various types of contractual authority an agent may have.

3. Barnett was orally hired by Paula to locate desirable real estate that she could use for rental property. She stated she wanted to find a four-plex that could be purchased for under $200,000 that could be rented for at least $1,000 per month per unit (which equates to $4,000 rental per month for the property). Barnett located a four-plex that could be purchased for $160,000 and was renting for $1,200 per unit. It was such a good deal that he purchased it for himself. About two months later he found a second property that was listed for $199,000 and rented for $1,000 per unit. Paula purchased the property. Afterwards, she learned that Barnett had bought the $160,000 four-plex for himself without telling her about it. Paula believes that Barnett has acted improperly. Barnett claims that he did what she asked -- he found a property for under $200,000 that rented for $1,000 per unit. He also claims that since their agreement was oral, he has a legal defense if she pursues the matter in court. Does Paula have any legal recourse against Barnett? Explain.

4. Andrew has been hired to do some work for Rossi Enterprises. What factors would a court consider in determining if Andrew is an employee or an independent contractor? Why does the designation matter?

5. Betsy's elderly father gave her written authority her to sell the family house. Her father lived in Arizona and she lived in Minnesota. After about two months she found a buyer for the house and signed an acceptance of the offer on March 21. Later that same day she learned her father had died the day before (March 20). Other members of the family did not want the family house sold and claimed that the acceptance Betsy signed was void. The buyer of the house claims Betsy had the legal authority to sell the house and that the contract is binding. Who is right?

6. Grant is a delivery person for Watkins Furniture. One day, after delivering a chair to Nadine’s house, he stopped at a fast food restaurant to get a sandwich at the drive-through window. As he was leaving the parking lot, he accidentally hit the rear of Blanche’s car. Discuss the possible liability of Watkins for Grant’s accident. Would there be any difference in the potential liability of Watkins if Grant had the accident after driving 30 miles away to visit a friend?