We defend each answer with an explanation based on citations from the book. +Citations appear on a yellow background in Times-Roman.

Paragraphs labeled Notes contain supplemental information we think useful but which is not part of the course. Paragraphs labeled Comments contain the author’s asides and may be ignored.

Recommendation: If you don’t fully understand a question or its explanation, we suggest you read the section in the book on which the question is based.

Caveat: The quiz questions are much more difficult than questions on the final. These quiz questions are longer, may offer more choices, make greater use of real estate jargon, and require harder thinking than do the questions on the final. And, unlike the questions on the final, a few of these quiz questions are tricky and a few do not have clear cut answers.

1. **2.3.1.1: NAR® Report Tells Where Dangers Lurk**

Which threat to the industry, was not mentioned in Bob Hunt’s review of NAR®’s D.A.N.G.E.R. Report?

- A. Masses of Marginal Agents Destroy Reputation
- B. Robots Replace Real Estate Agents
- C. Commissions Spiral Downwards
- D. Regulatory Tsunami Hits
- E. IRS Forces Exodus of Independent Contractors.
- F. A Consumer Brand Crashes the Party

**(B)** The threat of robots replacing real estate agents was not a threat considered in the D.A.N.G.E.R. Report, a report commissioned by NAR® and written by industry expert Stefan Swanepoel. All the other threats were evaluated in Swanepoel’s report and cited in Mr. Hunt’s article.

**(A)** **Masses of Marginal Agents Destroy Reputation:** This is the threat that the real estate industry is saddled with a large number of part-time, untrained, unethical, and/or incompetent agents. This knowledge gap threatens the credibility of the industry. This threat had the highest rating: by which Swanepoel means that barring any corrective actions to avoid this threat, this threat will be realized in the near future and it will be a game-changer.

**(C)** **Commissions Spiral Downwards:** One of the significant and likely dangers said to be facing real estate agents is “commissions spiral downward.” The study points out that, internationally, U.S. commissions are on the high side. (In the UK, for example, commissions are just 1 to 2%.)

**(D)** **Regulatory Tsunami Hits:** Swanepoel, refers here to the activities and proclivities of the CFPB. The CFPB is a creation of the Dodd-Frank act. Swanepoel says, “Only time will tell how much of an impact the CFPB will have on real estate brokers … What we do know is that the failure to comply at any level is not an option and the penalties for failure will be costly.”

**(E)** **IRS Forces Exodus of Independent Contractors:** As Swanepoel puts it, “A scenario in which agents are considered employees would initiate a complete reorganization of the existing revenue model. Most brokerage companies would be unwilling to hire agents that will not generate enough...
business to cover their costs." He goes on: “Agents would thus have three primary options: work as an employee for a large company under its operational guidelines, become a broker and work as a sole practitioner, or leave the industry altogether.”

(F) **A Consumer Brand Crashes the Party**: This is the possibility that “A well-established consumer brand such as the Home Depot is introduced into the marketplace and a new multi-billion dollar residential real estate brokerage brand is created.”

**Note**: There really are some experts that fear robots will replace real estate agents. See this article from Inman News for example.

2. **2.3.2.3: What is the ‘Qualified Mortgage’ Rule?**

What is **not** true about a Qualified Mortgage (QM)?

A. Its borrower’s DTI must be less than 43% (unless approved by a GSE).
B. Its lender gains a full legal shield from the CFPB should the borrower default.
C. Fees and origination costs must be equal to or less than 1% of the loan amount.
D. Its interest rate may not be more than 150 basis points over the benchmark rates.
E. It must be amortized.

(C) Most qualified mortgages will have a 3% cap on the amount of fees and origination costs that lenders can charge.

3. **2.3.3.3: Goodbye ‘California Dreamin’… Howdy Texas!**

Texas has …

A. a lower poverty rate than California.
B. a higher sales tax than California.
C. laws to enforce closed shops.
D. a state income tax.
E. a higher unemployment rate than California.

(A) With respect to Texas, the poverty rate is the highest in California.

(B) is wrong since the sales tax in Texas varies from 6.25% to 8.25% and in California from 7.25% to 10%.

(C) is wrong since Texas is a right-to-work state versus California (is) a union state.

(D) is wrong because it Texas has no state income tax.

(E) is wrong since California has recently had 10% unemployment… 3% higher than Texas.
4. **2.3.3.5: ECONOMY BRINGS GENERATIONS UNDER ONE ROOF**

Why is Toll Brothers (a home builder) replacing some of its family rooms with guest suites complete with a kitchenette? To appeal to homebuyers ...

A. in need of rental income.
B. needing servants’ quarters.
C. seeking multi-generational living arrangements.

[C] The reason that Toll Brothers is designing homes with guest suites is to accommodate the growing number of households that are “doubling-up” usually to save money as when, for example, retired grandparents live with their son or daughter and take care of their grand-children while their parents are at work.

**Citation:** Three generations living in one home is becoming so popular that builders are designing for this target market. Toll Brothers is replacing some of its family rooms with floor plans that include a guest suite complete with a kitchenette (perfect for grandma.)

5. **2.3.4.1: SMART HOMES: SIX ESSENTIALS OF HOME AUTOMATION**

What web service would you use with Belkin WeMo smart plugs to flash your home’s lights when receiving an email from your broker?

A. “This Then, Then This”
B. “What Then? Then This!”
C. “If This, Then That”

[C] For some wow-your-friends type home automation, pair your WeMo with the web service “If This Then That” {IFTTT} and have your toilets flush when you get an email from your boss or set your coffee maker to turn on five minutes before your alarm goes off.

**Note #1:** IFTTT is fascinating. You can interface this service with 166 different “Channels.” For example, you can set up a rule so that if the temperature in Puerto Vallarta, Mexico rises above 90 degrees the service will send you an email announcing the event. Other channels that you can monitor using IFTTT include DropBox, eBay, Facebook, Harmony, Instagram, LinkedIn, Stocks, SurfLine, and Twitter. Find out more about IFTTT here.

**Note #2:** Amazon’s popular wireless speaker and voice command device, Amazon Echo, also supports IFTTT. Using it with Nest (a smart thermostat) you can, while lying in bed, say, “Alexa, hit the heat” (“Alexa” is the wake word for Amazon Echo) and Alexa will turn on the heater. (Source ▶️)
6. **2.3.4.2: HOME TRENDS: WHAT YOU WILL/WON’T SEE IN HOMES**

What is **not** a “hot trend” in new home design? Homes with …

- A. two master bedrooms.
- B. laundry rooms off the master bedroom’s walk-in closet.
- C. “shadow units” (sub-units connected to the larger home’s living area).
- D. an outdoor kitchen.
- E. a “family triangle” room (dining room + kitchen + rec room).

**D** It seems that while homeowners want more livable space to relax on their outdoor couch, the outdoor kitchen is one area that homeowners feel they can live without.

All the other choices, and several more, are cited in the article as “hot home trends” in new home design.

7. **2.3.4.3: NOISY NEIGHBORS BE GONE**

What is this stuff?

- A. QuietFiber® Noise Absorbing Material
- B. SpeedGrow® Insta-Lawn Tiles
- C. AltoShamm® Squares

**A** According to the makers of this “revolutionary product,” “QuietFiber is the only sound dampening product on the market that can be custom tailored to create a complimentary design element in any space. You have the sound abatement properties you need in a product that can be completely hidden under a tapestry or in strategic spots throughout the room, or disguised as an artistic element within the space.”

Choices (B) and (C) are red herrings.

8. **2.4.1.1: USING GIFT MONEY FOR DOWN PAYMENTS**

According to Fannie/Freddie guidelines, what portion of a borrower’s down payment of 20% or more may be from a gift?

- A. All of it.
- B. None of it.
- C. Half of it.

**A** If you want to get a conventional loan, Quicken Loans advises the following: If you put down 20% or more on a Fannie or Freddie guaranteed loan, it can all be from a gift. We suppose that Fannie/Freddie’s rationale is that even if the borrower should default and the lender then have to foreclose, the lender will almost certainly recover what he is owed and his foreclosure costs.
9. 2.4.1.6: MAGIC #5S, 720/20, EXPLAIN WHY CREDIT IS TIGHT

WHICH STATEMENT IS FALSE?

It is more difficult for subprime borrowers to obtain a conventional mortgage than before the Financial Crises because ...

A. lenders believe subprime borrowers are more likely to default should the economy take a downturn.
B. subprime loans are more likely to be returned by the GSEs.
C. mortgage insurance is no longer available for LTV loans at or above 80%.

Mortgage insurance is still available but mortgage insurance today isn’t what it used to be. ... with fewer companies and mortgage insurance coffers drained by foreclosures, coverage is harder to get. What is available costs more than it did during boom times .... (and) down-payment-poor borrowers who need it often can’t get it because it adds to their debt and throws their debt-to-income ratios out of whack.

Notes: The question uses real estate terms not used in the article:

Subprime Borrowers are borrowers having a downpayment of less than 20% and a FICO score less than 720.

GSEs: Are Fannie and Freddie.

10. 2.4.2.1: FANNIE/FREDDIE’S ATTEMPTS TO COMPETE W/ FHA LOANS

WHICH STATEMENT IS FALSE?

Fannie/Freddie’s high-LTV loans (loans requiring less than 5% down) are not competitive with FHA’s high-LTV loans because Fannie/Freddie loans ... ?

A. require a higher FICO score.
B. have a minimum down of 3.5% vs. FHA’s 3.0%.
C. only recently began offering high-LTV loans.
D. require more expensive mortgage insurance.

Until recently, FHA-insured loans had the lowest down payment requirement of any type of mortgage loan – 3.5% (the highest LTV – loan to value – ratio). But in December 2014, Fannie introduced a mortgage program requiring only 3% down (formerly 5%) … (VA’s is also 3.5%). Freddie followed suit in March 2015.

All the other answers correctly describe Fannie/Freddie loans …

(A) The minimum FICO credit score for Fannie’s high-LTV loan is 620, for example, versus 580 for FHA and VA loans.

(C) Brian Koss … said that the need Fannie and Freddie were trying to meet (to appeal to first-time buyers with little savings for a down payment) is already being met. “They were late to the party,” he said, “and they chose some of the more restrictive approaches.”

(D) A recent analysis estimated that on a purchase of $250,000, with 3½% down, a loan with private mortgage insurance (as required for a Fannie/Freddie loan with 3% down) could cost a borrower with a FICO score below 680 from $225 to $260 more a month than an FHA loan requiring only 3.5% down.
11. **2.4.2.3: VA Financing: Excellent Option for Many**

For V.A. loans, sellers must ...

A. pay closing costs which the V.A. does not permit the veteran to pay.
B. fix every minor flaw cited by the appraiser.
C. pay points if market rates are higher than VA’s rate limit.
D. repair unsafe items cited by the appraiser.
E. wait weeks/months for V.A. loans to close.
F. finance any amount above the V.A.’s loan limit.

**(D)** A third ancient seller objection to V.A. loans is that V.A. appraisals often require “fix it” work (paint window sills, replace cabinet handles, etc.) that increases the seller’s costs. Kevin points out that now, “...the focus is on health and safety issues of the property which are deficiencies that could cause harm to the occupant.” These would need to be addressed in any kind of transaction.

**(B)** is a myth (see above quote).

**(C)** is a myth: Myth number one is that sellers will have to pay points based upon the loan amount.

**(D)** is a myth: The second myth is that sellers have to pay additional closing cost fees that the veteran is not allowed to pay. Under today’s rules, the veteran pays customary buyer’s fees in the market area.

**(E)** is a myth: There are those who still believe that V.A. insured loans take much longer to close than do conventional ones. It just isn’t – or needn’t be – so. If everyone does their homework and submits information on time, V.A. loans close within the same time frames that conventional loans do.

**(F)** A vet can buy above the {loan} limit by putting down 25% of the amount above the limit.

12. **2.4.3.3: Conventional vs. FHA: Which Do You Choose?**

In his comparison of the costs of FHA vs. Conventional Loans; the Mortgage Professor concluded that for loan amounts of less than $417K the cost of an FHA vs. a Conventional loan is ...

A. about the same.
B. significantly lower.
C. significantly higher.

**(C)** The Mortgage Professor evaluated every combination of three variables: (1) mortgage terms of 5yrs, 10yrs, and 15yrs; (2) LTV ratios of 80%, 85%, 90%, and 95%; and (3) credit scores of 640, 740, and 800 for a total of 36 (3x4x3=36) comparisons and concluded that the cost of the FHA was significantly higher than that of the conventional in all 36 comparisons. This conclusion would hold for loan amounts up to $417,000. Prospective borrowers can safely assume that for loans up to $417,000, they are better off with the conventional than with FHA.

**Note #1:** Since this article was written (September 2014), Fannie and Freddie reduced their minimum down payment requirement from 5% to 3% – a half point lower than FHA’s minimum down payment requirement. However, they require a FICO score of at least 620 in order to qualify (source). Also, in January 2015, FHA lowered it’s mortgage insurance premium from 1.35% to .85% (source).

**Note #2:** At present (February 2016), FHA requires two forms of mortgage insurance payment: (1) a one-time, “Upfront Mortgage Payment” equal to 1.75% of the loan amount and (2) a monthly mortgage
13. **2.4.4.2: LARGER DOWNS FOR GREAT YIELDS WITHOUT RISK**

Sally’s lender requires her to put down $20K for a $200K conventional loan at 4.25%. If Sally were to put down $40K for 20% down, what would be the return on her additional $20K investment? (Assume Sally will live in her home for seven years.)

A. 4.25%
B. 7.50%
C. 2.00%

(B) The particulars of Sally’s loan are similar to the example cited by the Mortgage Professor. His example considered the return for a borrower (“John”) who was able to double his required down payment from 5% to 10% for a conventional loan at 4.25%. His surprising result: a 7.888% return on the additional down payment with zero risk!

The reason Sally gets such a phenomenal return on the $20K needed to double her down payment from 10% to 20% is because she avoids having to pay mortgage insurance (mortgage insurance is required for any conventional loan with a down of less than 20%) and because she almost certainly will qualify for a lower mortgage rate with 20% down.

14. **2.4.4.4: APPLY FOR A MORTGAGE JOINTLY OR SEPARATELY**

Sally and Susie are married and apply jointly for a mortgage loan. If Sally’s credit rating is 800 and Susie’s is 600, what FICO score will their lender use in pricing their loan?

A. 600
B. 700
C. 800

(A) The Mortgage Professor says that when a married couple apply jointly for a loan, the lender uses the lower of the two credit scores ... in pricing the loan. He also writes to the couple that posed him the question the prompted the Professor to write the article, “Should we apply jointly or separately?” when you apply for a mortgage jointly your incomes are combined and so are any financial assets that are carried in your individual names and he wrote them that a joint application also requires that you combine the debt obligations of each party that are carried in separate names.
15. 2.5.1.1: **There Are Tax Benefits With Home Ownership**

Last year the Joneses refinanced their original $100K purchase-money loan with a $200K cash-out refi. The balance on their original loan was $95K.

If this year the Joneses expect to pay $10K in mortgage interest, how much of this amount may they deduct on this year’s 1040?

A. $9.75K  
B. $4.75K  
C. $5.00K

(A) This question is similar to the example used in the article to illustrate the deductibility of interest paid on a cash-out refinance: Several years ago you and your spouse purchased your house for $150,000 and obtained a mortgage in the amount of $100,000. Last year, your mortgage indebtedness had been reduced to $95,000 but your house was worth $300,000. Because rates were low last year, you refinanced and were able to get a new mortgage of $175,000. Your acquisition indebtedness is $95,000. The additional $80,000 that you took out of your equity does not qualify as acquisition indebtedness, but since it is under $100,000, it qualifies as if it was a home equity loan.

To answer this question, you needed to know two facts about deductibility of mortgage interest: (1) Interest on mortgage loans on a first or second home is fully deductible, subject to the following limitations: acquisition loans up to $1 million and home equity loans up to $100,000. If you are married, but file separately, these limits are split in half., and (2) The IRS has ruled that one does not have to take out a separate home equity loan to qualify for this aspect of the tax deduction. So in this example, the refinance included the balance from their first loan, $95K, plus $105,000 cash-out. Of the cash-out portion of their re-fi, the IRS allows the Joneses to treat it as if it were a $105K HELOC; therefore the Joneses can deduct the interest on $100K of that portion of the loan.

**Note #1:** Assuming the new loan is fully amortized over a 30-year period, the Joneses will be eligible to deduct the interest paid on a might less than the $195K since for each of the 12 months of 2017 the Joneses will be reducing their loan balance by a smidgen.

**Note #2:** The above rules apply to loans taken out after October 13, 1987 ([source](#)).

**Note #3:** Had the Joneses used at least $5K of the $105K cash-out portion of their re-fi to improve their home, then they could deduct all the mortgage interest paid on their first. The $100K limit on HELOC interest relates only to that portion of the loan amount used for some purpose other than to buy, build, or improve one’s home(s). The interest on that portion of a HELOC used to buy, build, or improve one’s home is treated as if it were mortgage interest paid on an acquisition loan. ([Source](#))

**Note #4:** You can deduct interest on only your personal residence and one vacation home in which case the caps relate to the sum of the mortgage interest paid on both homes. ([Source](#))
16. 2.5.1.2: WHAT IF YOU DON’T OWN YOUR HOUSE FOR TWO YEARS?

One year after purchasing her home, Sally sold it for a $100K gain. Sally need not pay federal taxes on her gain if the reason she sold her home was to …

A. move to the beach for cooler summers.
B. change jobs to shorten her minute commute.
C. move to a larger place because she gave birth to triplets.
D. move to Florida to care for her injured fiancé.

(C) As Benny Kass writes in this article, a homeowner who owns his home for less than two years may still benefit from the federal home-sale tax exclusion providing they fall into one of seven official “safe harbors” allowed by the IRS. One such safe harbor is multiple births resulting from the same pregnancy.

(A) is wrong unless Sally’s doctor has diagnosed her with thermophobia and orders her to move to a cooler location. The IRS grants a safe harbor for medical reasons only if a doctor recommends a change of residence for reasons of health and the IRS made it clear, however, that a sale of the family home merely because it is beneficial to the general health or well-being of the taxpayer will not fall within the safe harbor.

(B) is wrong since the safe harbor for changing one’s place of employment {must be} at least 50 miles farther from the residence sold than was the former place of employment.

(D) is wrong unless Sally marries her fiancé before selling her home. Mr. Kass writes that exclusion can be applied to obtain or provide medical or personal care for a qualified individual suffering from a disease, illness or injury but that “qualified individual” includes family members who are in need of medical assistance away from the principal residence.

17. 2.5.2.1: FACT OR FICTION: A TAX ON RE SALES?

Which of these married couples must pay the new 3.8% Net Investment tax?

A. The Browns: Last year they earned $190K and realized a gain of $900K from the sale of their home.
B. The Smiths: Last year they earned $1.1 million and sold their home at a loss.
C. The Joneses: Last year they earned $400K and made a profit of $2 million from the sale of their apartment building.

(C) The new 3.8% Net Investment tax applies only to high-income individuals and couples with passive income. “High-income” means income over $250K (the “threshold”); “passive income” is income earned from investments. Because the Joneses are a high income couple with passive income (from the sale of their apartment building) they must pay the 3.8% tax on the lower of two amounts: (1) their “adjusted gross income” over the threshold, or (2) their passive income. For the Joneses, (1) is $150K ($400K-$250K), and (2) is $2 million. Since (1) is lower, the Joneses will have to pay a Net Investment Tax of $5,700 (.038 x $150K).

As the article explains, if passive income is from the sale of one’s primary residence, then the amount of their passive income is reduced by the taxpayer’s home sale exclusion ($500K for a married couple who have lived in their home for two of the previous five years). But the Joneses passive income is not from the sale of their home but from the sale of an income property, their apartment building.
(A) is wrong because Browns are not “high-income.” Although they won’t have to pay the 3.8% Net Investment tax, they will have to pay capital gains on $400K of their $900K gain (assuming that they have lived in the home for two of the last five years).

(B) is wrong because the Smiths had a capital loss (they should be able to offset future capital gains with this loss).

18. **2.5.2.3: AN EXCHANGE WILL DEFER ALL TAX OBLIGATIONS**

Maria wants to sell her rental in Lake Tahoe and buy a rental in Palm Springs. François wants to sell his rental in Palm Springs and buy a rental in Lake Tahoe. What type of exchange should Maria and François make to delay the payment of capital gains on their individual returns?

A. A Currency Exchange.
B. A Foreign Exchange.
C. A Starker Exchange.

**C** It’s called a Starker Exchange but is also known as either a “§1031 Exchange” or a “Like-Kind Exchange.” Here is the article’s explanation of a Starker Exchange: What is a Starker? – also referred to as a “like kind” exchange. The ideal exchange is a direct exchange. I own investment property A and you own property B (also investment). Both are of equal value. On February 1, 2014, you convey B to me and on that same day I convey property A to you. If there is a written agreement between us that this is to be a §1031 exchange, neither of us will have to immediately pay any capital gains tax on any profit we have made.

19. **2.5.3.1: AGENTS MAY NOT ALWAYS DEDUCT LOSSES FROM RENTALS**

If a taxpayer is a “qualified real estate professional” as defined by the IRS, he may deduct losses from his income properties from his ordinary income.

**False** Bob Hunt, wrote this article to debunk this common misconception.

If only it were true, then an agent could offset commission income with depreciation losses from income properties.

The IRS treats active income by different rules than passive income. Passive income is income from investments; for example, interest earned from returns on bonds. But what about profits from rentals? Clearly if the taxpayer spends no time managing the rentals, the IRS would classify that income as “passive.” But what if the taxpayer manages his own rentals?

The IRS provides a seven factor test for determining if income from income properties is active or passive. The most important of these tests is this: Did the individual participate in the activity for more than 500 hours during the year? If the answer is “no” and if the income property produced a loss; that loss may only be deducted against profits made by other investments or it may be used to offset future profits from passive investments.

**Note:** Depreciation losses used to reduce income must be deducted from a property’s adjusted basis thus increasing the taxable profit when the property is sold (source).
20. **2.5.3.3: EMPLOYEE OR INDEPENDENT CONTRACTOR**

Betty hires Sally, a licensee, to help her sell real estate under her close supervision. Betty must pay Sally as …

A. an independent contractor  
B. either an independent contractor or as an employee.  
C. an employee.

(C) Sally is clearly an employee and not an independent contractor. An independent contractor like Betty is paid on the basis of the results of her work, not on the time or manner of her work. This not the case with Sally since she requires close supervision from Betty and is paid a salary irrespective of the commissions she might help Betty earn.

**Note #1:** Betty must classify Sally as an employee and follow all the labor and tax laws applicable to employees. Betty must pay Sally at least the minimum wage, pay half of her social security taxes, make contributions on her behalf to unemployment insurance, and pay for her worker’s compensation insurance. Moreover, since Sally is not “exempt” from the labor laws (click here to read about these laws) Betty will have to be sure that Sally keeps records of her hours and the work she performs and pay Sally for any overtime and other benefits to which she is legally entitled. Betty should keep records related to Sally’s performance in the event Betty must terminate Sally for poor performance and Sally should sue her for wrongful termination.

**Note #2:** Through its lobbying efforts, NAR® has secured for its members a special tax classification: “statutory independent contractor.” This classification allows brokers who hire agents to treat them as independent contractors providing: (1) the agent is paid only on commission, and (2) the agent has signed a contract with the broker which stipulates that the agent will not be treated as an employee for federal tax purposes. (*Source*)

21. **2.6.1.2: BEWARE: THERE’S A NEW RESPA SHERIFF IN TOWN**

Dodd/Frank appointed the CFPB as the new “RESPA Sheriff.” Why is the new sheriff more fearsome than the old?

A. He uses DOJ’s staff attorneys to prosecute its cases.  
B. He may, on his own initiative, levy huge fines against violators.  
C. He is concentrating enforcement on the big fish while ignoring the small fry.

(B) The new sheriff is none other than the Consumer Financial Protection Bureau and he takes his job seriously. The real estate industry is just beginning to understand the extent of the CFPB’s regulatory powers and the aggressiveness with which it is exercising them. The article goes on to explain that the CFPB, a creation of Dodd/Frank, was given the power to initiate civil actions in its own name, with its own attorneys unlike HUD which had to present their cases to the Department of Justice, which would then review the matter and decide whether or not to proceed with a suit. Furthermore, the CFPB was given the power to levy huge fines $25,000 per day if the violation is deemed reckless, and up to $1 million per day for any violation committed knowingly. The CFPB, as RESPA News warns, “Don’t think that because you are a small company that the bureau will overlook you... In fact, the CFPB has begun to target individuals as well as companies...”
22. 2.6.1.3: Pocket Listings Require Disclosure

Which of the following pocket listings is controversial?

A. Agent to Other Brokers: “I will find my own buyer.”
B. Homeowner to Agent: “Bring me an offer and we’ll talk.”
C. Seller to Agent: “Don’t put my home into the MLS!”

(A) The kind of pocket listing that generates controversy is the situation where an agent does have a listing contract but the listing is not entered into the MLS.

(B) is wrong when a homeowner has, without a contract being signed, told an agent that he has some interest in selling and could entertain an offer if the agent brings a buyer. There really is not much controversy, nor much enthusiasm, about pocket listings in this sense.

(C) is wrong because the California Regional Multiple Listing Service (CRMLS) has always provided an exemption which it states as follows: If the seller refuses to permit the listing to be disseminated by the MLS, within two business days, the listing broker shall submit to the MLS a certification signed by the seller that the seller does not authorize the listing to be disseminated by the MLS.

23. 2.6.2.1: Communication Between Appraisers & Agents Vital

An agent should not communicate with his client’s appraiser after the appraiser has ...

A. seen the property.
B. made his valuation.
C. published his report.

(B) Vic Knight, an appraiser …, said … “The window of opportunity to communicate with an appraiser is before the valuation is made. Once that window closes, you can ask for a correction of errors, or seek clarification.”

Later in the article, we read Once an appraisal has been completed, any communications about error or offers of additional information must be with the client who ordered the appraisal, generally the lender.

24. 2.6.3.1: What Happens When Principal Refuses to Sign?

In the case of Blueberry Properties v. Esther Khoe Chow, Ms. Chow refused to sign the documents required to close escrow on the sale of her apartment building. Blueberry solved this problem by …

A. obtaining a court order for Ms. Chow to sign the documents.
B. convincing a judge to appoint someone else to sign on Ms. Chow’s behalf.
C. by having Mr. Chow, her husband, serve as proxy for Ms. Chow.
D. by suing Ms. Chow for specific performance.

(B) The facts in this question are identical to the case of Blueberry Properties v. Esther Khoe Chow, 2014. Blueberry went to court and sued for specific performance and won but, unfortunately, Chow failed to comply with the settlement. She withheld her signatures from the documents necessary to reopen and complete the sale. Blueberry went back to court whereupon the judge issued an order to Ms. Chow which read, in part, “Esther Chow [is] ordered to do all things necessary and to execute all documents necessary
to consummate the sale by Defendant, Esther Chow to Plaintiff, BLUEBERRY PROPERTIES…” Alas, Ms. Chow again refused to sign the escrow documents.

Blueberry went back to the court and succeed in getting the court to appoint for him an elisor. An elisor is someone the court appoints to sign and/or act on behalf of some other person.  Ms. Chow appealed the appointment but the appellant court agreed with the trial court and wrote in their decision “The Buyer’s right to specific performance is nearly absolute and though the remedy may take a number of litigation efforts to enforce, the Seller does not actually need to sign any of the documents in order for the transfer of the property to occur.”

Note: The appellate court affirmed the trial court’s order to appoint an elisor “because it was proper under Code of Civil Procedure §28.(a)(4), which empowers the court to compel obedience to its judgments.” (Source)

25. 2.6.3.3: TAX RETURNS ARE NOT SACRED

Why do lenders insist that their borrowers sign this form?

A. To give the lender priority should the IRS place a lien on this borrower’s home.
B. To periodically check his borrower’s 1040 to ensure his borrower can still afford his loan.
C. As part of a fraud investigation should the borrower default on his loan.

(C) Lenders claim they need this form in case they subsequently discover irregularities, fraud, or misrepresentations on the part of their borrowers. If shortly after settlement the borrower stops making the mortgage payments, the lender wants the right to investigate whether the borrower was telling the truth when they applied for the loan. And according to the lending community, reviewing past and future income tax returns will assist them in this determination.

(A) is wrong because even if the IRS placed a lien on the lender’s home, IRS liens do not have priority over the lender’s mortgage liens (source).

(B) is wrong. The lender can’t call the loan or foreclose unless the borrower defaults; that is, unless the borrower stops paying the mortgage. No mortgage loan requires the borrower to maintain a certain level of income to pay back its loan.

26. 2.6.4.1: WIRE TRANSFER FRAUD IN RE TRANSACTIONS

What would a hacker most want to find after hacking into an agent’s email account?

Details about the agent’s ...

A. deals in escrow.
B. active listings.
C. customer list.
The hacker would be seeking details about the agent’s buyers in or about to enter escrow. Specifically the hacker would want to find specific details about the deal, such as: (a) the parties’ names, (b) the title company involved, (c) the escrow officer in charge of the deal, and (d) other information specific to the transaction. Why? With these details hackers have composed convincing but fraudulent emails to buyers giving them detailed instructions for wiring their down payments not to the sellers’ bank accounts but rather to the hackers’ bank accounts.

The cleverest hackers use grammatical English and an email address closely resembling the escrow’s email. The article notes that due to the amounts involved (often the buyer’s entire down payment) and the complex nature of investigating and prosecuting wire fraud, the odds are that the authorities will do nothing to help in these instances.

In any case, the article recommends a simple method for thwarting wire transfer fraud: Buyers and sellers should confirm all email wiring instructions directly with the escrow officer by calling the escrow officer on the telephone. In that conversation, the correct account number information should be repeated verbally before taking any steps to have the funds transferred. The article also recommends having the buyer confirm the escrow’s phone number with his agent.

Note: Recently I stopped my practice of using one password for all online accounts. It occurred to me that if any of my vendor’s sites were hacked (or if the vendor was a fraudster) the hacker might discover both my email address and its password. Knowing such details, the hacker could access my email account where he might then discover where I banked, my social security number, and other details useful for perpetrating a scam.

27. 2.7.1.3: Buyer’s Broker Must Evaluate Reports

Linda listed Bob’s vacant lot in her MLS with a note stating that she had a report written in 1982 from the the County Planning Department (CPD) certifying Bob’s lot as “ready to build.”

With Betty’s help, Sam (a retired pharmacist) bought Bob’s lot. Now, one year later the CPD informs Sam that he may not build on his lot because according to the latest standards his lot is now deemed geologically unstable. Now Sam’s lot is worthless.

Who is the most liable for Sam’s loss?

A. Betty
B. Sam
C. Linda
D. Bob

Betty is the most liable and, of course, if Betty is employed by a broker, her broker is vicariously liable. The question is based on Saffie v. Schmeling, 2014, the subject of this article. The fact situation in that case is nearly identical to that of this question.

In that case, the buyer sued his agent, the seller, and the seller’s agent (and, of course, both of their employing brokers). The trial court dismissed the seller and his agent from the case; consequently the plaintiff appealed their dismissal. The Appellate Court agreed with the trial court stating that neither the seller nor his agent made any misrepresentations and therefore was not liable. The Appellate Court reasoned that only the buyer’s agent was liable since it was that agent’s duty to read, understand, and convey to his client the risks of relying on a thirty-year old report particularly when he should have known that building standards were made more rigorous following the 1994 Northridge quake.
(B) and (C) are wrong. The Appellate Court wrote, “It was incumbent on buyer – and on buyer’s broker, in his role as a fiduciary for buyer – to determine whether the Fault Hazard Investigation report [aka, 1982 CPD report] was something buyer should rely on for his particular purposes.”

(D) is wrong because Sam (the buyer), as a retired pharmacist, knew next to nothing about real estate transfers and thus relied upon Betty to protect his interests. If he had been a contractor or builder, then he almost certainly would have shared liability with his agent, Betty. (In the actual case, the buyer’s broker didn’t know what a Fault Hazard Report was (and neither does this writer) but, given how critical it was to Sam that he be able to build his dream home on the lot, Betty should have found researched the matter.)

### 28. 2.7.1.5: CORPORATE BROKERS NOT LIABLE TO THIRD PARTIES

Five years ago, Sally founded GRI, a corporate licensee, naming George as its designated broker. But George was never actively involved in GRI and Sally was always GRI’s lone employee.

Last year Sally died and this year Bob, a former client of Sally, won a five million dollar judgment against Sally’s estate for intentional fraud in a real estate transaction. Bob may not collect his judgment from …

A. Sally’s estate.
B. George.
C. GRI.

(B) Bob may not collect from George. True, George was GRI’s designated broker and as such had the legal responsibility (see BPC §10159.2 and CR 2725) to supervise Sally. Since Bob obviously didn’t supervise anyone, CalBRE would regard George as a “rent-a-broker” and almost certainly revoke his license.

But because George is, strictly speaking, only an employee of GRI, it is GRI and not George who is vicariously responsible for Sally’s fraud. As Bob Hunt states in his article: ...even if a designated officer fails to fulfill his statutory obligation to supervise the company sales agents, he or she will not have personal liability to third parties who may have been harmed by the wrong-doing of one of those salespersons.

Bob may attempt to collect his five million dollar judgment from whatever remains of Sally’s estate or Sally’s defunct corporation (good luck with that!) but George has only to worry that CalBRE may revoke his license for his “failure to supervise.”

**Note #1:** For an authoritative article by CalBRE on the legal responsibility of designated officers to supervise the corporation’s agents, click [here](#).

**Note #2:** If George had been supervising Sally but did not actually participate in Sally’s wrong-doing, then, George would not be vicariously liable since legally he was only an employee of GRI; GRI, however, would be vicariously liable. George’s personal assets would still be safe from Bob in Bob’s efforts to collect his money judgement.

Of course GRI is just a paper entity and George is a flesh-and-blood human being who was legally responsible for supervising Sally. Since Sally is dead and GRI defunct, Bob’s attorney would almost certainly argue that GRI was a sham corporation. The strategy in which the plaintiff argues that the defendant corporation is a sham is called “piercing the corporate veil” – the “veil” being the legal artifice that shields George from liability for negligent acts performed on behalf of his corporation. If Bob’s attorney could show that GRI was a sham, George would be vicariously liable to Bob. ([Details](#))
Note #3: What if George had supervised Sally and even participated in Sally’s fraud? In that case, George could not hide behind the corporate veil – he would be personally liable to Bob. The corporate veil does not protect those who intentionally inflict harm to third parties.

29. **2.7.2.1: FALSE PREDICTIONS AREN’T FRAUD**

Which false claim cannot be fraudulent?

A. “This house really is worth much more than the seller is asking.”
B. “This house will triple its value by 2014.”
C. “The seller bought this house just last year for twice what he is now asking.”
D. “6% and 6 points is a standard loan rate for someone with your excellent credit.”

(B) Predictions aren’t fraud. Even if Sally made this statement with fingers crossed behind her back, it is still not actionable. All the other false statements are potentially actionable because they misrepresented known facts and could have induced Bob to buy. From *Graham v. Bank of America, 2014*: “Predictions about a buyer’s real estate investment or the fair market value for property in the future are not actionable representations. It is [settled] law that an actionable misrepresentation must be made about past or existing facts; statements regarding future events are merely deemed opinions.”

30. **2.7.2.4: SMALL CLAIMS COURT MANUAL, AID TO REALTOR®S.**

Which statement is true about Small Claims Court?

A. The maximum it can award is $1,000.
B. Neither party may be represented by an attorney.
C. Decisions take longer than in Civil Court.
D. CAR® discourages the use of Small Claims Court.

(B) With very limited exceptions, attorneys are not permitted to represent a party in a small claims court action.

(A) is wrong because as of January 1, 2012, small claims court jurisdiction is up to $10,000.

(C) is wrong because a small claims action will be heard in a much shorter time frame than would be likely in a higher venue.

(D) is wrong because CAR® encourages the use of small claims courts and has published a manual to help REALTOR®s prepare their cases.

31. **2.7.3.2: LISTING CONTRACT: NEW RULES FOR COMMISSION**

Lucy lists Sam’s home for $500K using CAR®’s Residential Listing Agreement. Lucy then brings Sam a perfect buyer – an investor ready to pay the listed amount in cash without contingencies. Rather than accepting his offer, Sam counters with two million dollars and so, naturally, the investor walks. Even though Lucy’s buyer did not complete the sale, Lucy earned a commission.

(True) Lucy fulfilled the terms of her listing contract but Sam breached his promise to not interfere with the sale when he quadrupled his price knowing full well that it would be rejected by the potential buyer.
In 2013, CAR®s Residential Listing Agreement was changed to state that a commission is owed only when both of two conditions are met: (1) a ready, willing, and able buyer makes an offer whose price and terms are accepted by the seller, and (2) the buyer completes the transaction, unless prevented from doing so by the seller. In the previous versions of the Agreement, a completed transaction was not a required condition for a commission to have been earned.

Note: The stipulation that the “buyer completes the transaction” applies only if the seller doesn’t interfere with the sale. Admittedly, this is an ambiguous and arbitrary standard; however, any of the following conditions would almost certainly be judged as interference: (1) the seller assaults the buyer, (2) the seller intentional defaults on material terms in his purchase agreement, (3) the seller deliberately damages his home during escrow, (4) the seller refuses to move, (5) the seller increases his price knowing it will be rejected by the buyer, (6) the seller intentionally conceals a material defect.

32. **2.7.3.3:** **BUYER CLAIMING BREACH MUST BE READY TO PERFORM**

The facts in *Tornel v. Office of the Public Guardian of Los Angeles County* were as follows: Two weeks after escrow was to have closed, both seller and buyer were in default. Because the seller was in default, the buyer demanded cancelation of escrow and return of his $10K deposit. The seller refused.

By the time the Court had litigated their dispute, the seller had already resold the property for $35K less than their plaintiff (Nornel) had promised to pay.

How did the court resolve the suit? The court ordered that the seller should …

A. return the $10K deposit after receive $35K from the buyer.
B. keep the $10K deposit.
C. keep the $10K deposit and receive $35K from the buyer.
D. return the $10K deposit.

(C) Both the trial and the appellate courts agreed that the buyer did not deserve the return of his deposit and was also liable for the seller’s $35K drop in price. It concluded: even if time for performance has expired, a party cannot claim default by the other party as justification to terminate the escrow without either performing or having tendered performance to the other party.

33. **2.8.1.1:** **SEVEN WAYS TO USE THE HUMBLE CONCRETE BLOCK**

What statement about the “humble concrete block” is **not** true?

A. It is fire resistant.
B. Its color is a shade of grey.
C. It is also known as a “cinder block.”
D. It has two holes.
E. It is a versatile building material.
F. It is used to insulate attics.

(F) Concrete blocks would make a terrible insulation material especially in attics. Yes, concrete blocks are cheap but, due to their density, they are not very effective in keeping out the cold. Moreover, each standard concrete block weighs 28 pounds and hundreds would be needed to insulate the attic above an average-sized room. The weight from hundreds of cinder blocks would put incredible
stress on the home’s frame causing it to topple in even a mild earthquake. ☺

Lastly, use of cinder blocks in an attic would be highly unsafe. If a cinder block were to fall through the plywood sheathing beneath the ceiling joists and into the room and onto the head of an occupant, at 28 pounds (almost twice the weight of a regulation bowling ball) it would, most likely, kill the unfortunate occupant. ☺

Each other choice correctly describes a feature of a concrete block:

(A) And their (concrete blocks) color is a tone of gray that goes with everything.
(B) Concrete blocks, or cinder blocks as they’re also known …
(C) Why are cinder blocks so versatile? Perhaps it’s the fact that their form is simple, clean-lined and modern ...
(D) One of the examples used to illustrate the many uses of the humble concrete block is in the construction of a simple fire pit. Obviously then, concrete blocks are fire resistant.

Note: Autoclaved aerated concrete cinder blocks (if you can find them) in contrast to standard concrete blocks, do provide good insulation and weigh only 20% as much as a standard concrete block. But at 5.6 pounds they are still too heavy for use as an insulating material in an attic.

34. 2.8.1.4: SMART HOME RENOVATIONS THAT PAY YOU BACK

In renovating a home for re-sale, which two rooms deserve priority?

A. kitchen and garage.
B. kitchen and bathroom.
C. bedroom and living room
D. living room and den.

(B) “Kitchen and bathroom remodels continue to be two of the best investments you can make in your house,” said HGTV. “They’re always right up there at the top of the list. They’re the big, sexy rooms that new home builders splurge on, so when buyers are shopping around that’s what they want in an existing home, too.”

35. 2.8.1.5: TOP REMODELING TRENDS FOR 2014

Which of the following is not a “hot remodeling trend for 2014.”

A. Floating sinks.
B. Floating refrigerators.
C. Floating shelves.

(B) Ms. Naciri’s article mentions floating sinks and floating shelves as examples of hot new remodeling trends.

Note: In our searches we also found floating tubs, floating toilets, and floating urinals. But we were unable to find any images floating refrigerators except this one ☺ which few would regard as trendy.
**36. 2.8.2.2: Neighbors Know; Home Buyers Can Benefit**

A good reason for a listing agent to contact his seller's immediate neighbors would be to …

- A. discover hazards peculiar to the neighborhood such as rattlesnakes.
- B. learn about seasonal hazards such as floods from El Niño storms.
- C. learn about neighborhood land use issues such as parking.
- D. to learn about the neighbors.
- E. notify them that your seller’s property is for sale.

**E** This article suggests that the seller may be shy about pitching his homes to friends and neighbors and that his agent should consider doing so to the two, three, or four abutting property owners and the rest of the close neighbors, all of whom continue to be committed to living in the area they love, represent an even bigger pool of friends and contacts that could be potential buyers or sales supporters.

All the other choices are good reasons for the buyer’s agent to meet the seller’s neighbors. Although the listing agent has a duty to perform a visual inspection of his seller’s residence and to disclose any material deficiencies he finds or knows (CC §2079), the listing agent works for the seller and not for prospective buyers.

**37. 2.8.2.4: Who Should Pay for a Boundary Fence?**

Fred and Sally share a dilapidated fence between their homes. Sally wants the fence repaired so rabbits do not enter from Fred’s yard into her vegetable garden.

Sally notifies Fred that she intends to have the fence repaired and that she expects him to pay for half. Fred ignores her notice and when he receives Sally’s bill four weeks later he throws it in the trash. Fred is within his legal rights to refuse her payment.

**False** True, the recently enacted “Good Neighbors Fence Act” (AB 1404) presumes that neighbors are equally responsible to contribute to the construction and maintenance of their shared fencing. As the law requires, Sally gave Fred 30 days of advance notice as to when the fence would be repaired. And as the law provides, Fred could have declined to pay on many different grounds. For example, Fred could have objected on the grounds that he would derive no benefit from a repaired fence or he could have objected on the grounds that Sally could have solved her “Rabbit Problem” with less expense by fencing her garden with chicken wire.

But because Fred did not respond to Sally’s notice, the law made him responsible for half the cost of the fence’s repair.

**38. 2.8.3.3: Should Condo Boards Seek FHA Approval?**

The FHA’s condo-approval requirements are …

- A. “sweet, simple, and short.”
- B. designed to protect borrowers and lenders.
- C. uniform for condos of all types and sizes.
In general, the requirements are designed to protect residents against financial hazards arising from their responsibility for the condominium’s affairs. Rules that protect the residents also protect the lenders who make condo loans which in turn protects FHA as the insurer of those loans.

(A) is wrong because the FHA condo approval requirements are 95 pages long.

(C) is wrong because the FHA condo approval requirements … vary with the type and size of the condo and are not easy to summarize.

39. **2.8.3.4: WHO PAYS FOR HOA DOCUMENTS?**

If Joe is interested in buying Sally's condo, the law requires Sally to give Joe her HOA’s governing documents. If she signs a standard CAR® Residential Purchase Agreement then who must pay for these documents?

A. Joe  
B. Sally  
C. It’s negotiable.

(B) When CAR® releases its new standard form purchase contract in November [2014] that issue whether the seller or the buyer should pay will no longer be negotiable. More precisely, the contract will stipulate that the seller is to pay for the cost of providing those HOA documents that the law requires be given to the purchaser.

40. **2.8.3.5: CONDO PURCHASES REQUIRE MANY DISCLOSURES**

The law requires an HOA to disclose to any prospective new buyer …

A. any pending litigation to which it is a party.  
B. policy regarding member’s rights to parking and storage.  
C. its minutes from its recent meetings.  
D. its recent financial statements.

(D) The disclosures legally required are … (2) Financial matters including Budget, Reserves, Financial Statement … and Regular and Special Assessments.

(A), (B), and (C) are all wrong because they are not legally required. Mr. Hunt states that they are contractually required for any seller who signs CAR®’s standard purchase contract. These extra-legal disclosures include (i) disclosure of any pending or anticipated claim or litigation by or against the HOA, (ii) a statement containing the location and number of designated parking and storage spaces, and (iii) copies of the most recent 12 months HOA minutes for regular and special meetings.