

Examining Compliance with Fiduciary Duties: A Study of Real Estate Agents

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Issue

Do residential real estate agents comply with fiduciary duties imposed on them?

- We find evidence consistent with:
 - Agents secure business in ways that decrease the returns to their principals
 - This can be decreased where 2 brokerage firms are involved, compared to a single brokerage firm

Industry & Transaction Background

- 2 Agents Involved in Sale of Residential Real Estate:
 - **listing agent**
 - agent with listing
 - **selling agent**
 - agent who drives around prospective buyer
 - **Traditional Rule (some statutory change)**
 - Each is the seller's fiduciary contract to the contrary
- Selling agent needs to bind buyer to working with selling agent
 - Conscientious
 - Knowledgeable
 - Is house overpriced?
 - Potential violation of duty to seller

Legal Issues to Be Examined

- **Do selling agents violate their duties in a way that decreases prices realized by sellers?**
 - Is agent success at the sellers' expense?
 - Selling agents who frequently sell--lower price?
 - Are lower prices associated with circumstances in which malfeasance is less restrained?
 - Intra-firm policing
- **Next Slide: Summary of Findings→**

Summary of Findings

- Lower sales prices where selling agent specializes in selling
 - 3.3% to 6.6%--statistically significant
- Lower sales prices where 2 firms vs. 1 firm but 2 agents
 - 1.5% to 2.5%--only significant at 10% level
- Interaction:
 - selling agent specialization where 2 firms has lower sales price than selling agent specialization where 1 firm and 2 agents

Data

Louisiana MSA--Residential Single Family Dwelling Sales in 1995

- 4,227 total sales
- 3,209 information reported in MLS
- 1,247 in 6 relatively homogenous MLS areas
- Agent Specialization
 - Definition: At least 75% of transactions from capacity
 - 20% of transactions selling agent specializes in selling
 - 13% of transactions listing agent specializes in listing
- Firm Participation Types
 - 53%--2 Brokerage Firms
 - 27%--2 Agents, 1 Brokerage Firm
 - 20%--1 Agent

Variation from Default by Contract Is Rare

- LA law (repealed May 1997) provided default: both agents were fiduciaries of the seller
- Variation from Default Less than 5.5%
 - **Buyer's Broker**
 - 2.5% to 3.9% (documentation not always clear)
 - **Buyer Related to or Is Selling Agent**
 - 0.9%
 - **Dual Agency**
 - 0.0% to 0.7% (documentation not always clear)
- Sample of 437 sales involving largest firm

Model-Ordinary Least Squares Regressions

$\ln(\text{price}) = \text{constant} +$

sum $[b_i$ (dwelling & transaction characteristics)]+
 b_u (2 agents, 2 firms)* + b_v (1 agent) +
 b_w selling agent specializes in selling +
 b_x listing agent specializes in listing +
 b_y selling agent participation level +
 b_z listing agent participation level

Omitted Firm Relationship: 2 agents, 1 Firm
* allows comparison to 2 agents, one firm

Other models add interaction variables

interact each of 3 possible agent relationships

2 firms; 2 agents in same firm; 1 agent

with:

- largest firm in MLS
- selling agent specializes in selling

Control Variables

- Age
- Age²
- living area
- days on market
- $1/[1+\text{days on market}]$
- fireplace
- tenant
- no heat
- no air
- carport
- garage

Issues in Model Formulation

- We cannot test absolute value of performance, only relative performance
- Form comparable to real estate finance literature
- Natural log of sales price if relationship non-linear
- Test Model Specification
 - re-run eliminating sales of new houses
 - run on full sample and subsample of more homogeneous housing
 - re-run using altered definition of agent specialization (66% and 34% cut-offs)

Table 2—OLS Regression of ln(sales price)—selected indep. vars

	<u>1247 sales</u> <u>(subsample)</u>		<u>3209 sales</u>		
two firms	-0.022 [1.74]*	-0.013 [0.51]	-0.015 [1.41]	0.011 [0.75]	<-- both
1 agent	-0.018 [1.16]	-0.006 [0.24]	-0.037 [2.53]**	0.000 [0.01]	10% no new
ln(selling agent's participation level)	0.007 [0.94]	0.005 [0.68]	0.005 [0.91]	0.004 [0.76]	house & alt spec. def'n
ln(listing agent's participation level)	0.012 [2.11]**	0.009 [1.52]	0.014 [3.20]***	0.012 [2.64]***	
selling agent specializes in selling	-0.034 [2.42]**		-0.049 [3.93]***		sig. 5% all mods
listing agent specializes in listing	0.015 [1.09]		0.023 [1.96]*		
two firms; Firm A participates		0.030 [2.14]**		0.054 [4.36]***	
two agents, both w/ Firm A		0.033 [1.40]		0.079 [4.40]***	
one agent, with Firm A		0.048 [1.93]*		0.043 [1.81]*	
two firms; selling agent specializes in selling	-0.037 [2.25]**		-0.062 [4.27]***		<-- Diff. Sig:
one agent; selling agent specializes in selling	-0.057 [1.23]		-0.068 [1.81]*		p-val reject
two agents, one firm; selling agent specializes in selling	-0.016 [0.54]		-0.003 [0.13]		equal of 0.02 <--
R ²	0.81	0.81	0.77	0.77	

Analysis

Selling agents take actions adverse to their principals to secure business

- Result:
 - Selling agent specialization associated with lower prices
- Analysis:
 - Agents will vary
 - More willing secure selling business
 - => specialized selling agent associated with lower sales prices is consistent with agents not following their obligations

Splitting duties between firms can exacerbate the misconduct

- Result:
 - Some evidence lower prices when split duties between two firms
 - if specialized selling agent, higher price when 1 firm than 2; p -value is 0.02.
- Analysis:
 - Theory: Intra-firm relationships can inhibit misconduct
 - Selling agent specialization is associated with lower price when 2 firms vs. 1 firm and 2 agents
 - => specialized selling agent restrained in promoting buyer's interest when listing agent is with the same firm

