

RISC Rice Insurance Services Company, LLC

• We put the **Experience and Options** in E&O providers •

TIPS TO AVOID REAL ESTATE ERRORS AND OMISSIONS CLAIMS

While even the most diligent licensee may be the victim of a frivolous claim, diligent business practices help decrease risk. Even if these procedures do not prevent a claim, they may greatly enhance the chance of a successful defense.

1. Resolve problems far before the closing date. Don't wait until the last minute to address problem issues. When people are rushed to resolve matters, they are more likely to make mistakes or overlook items.
2. Don't try to be an expert at everything. Involve key professionals, such as attorneys, home inspectors, termite inspectors, appraisers, lenders, and surveyors when needed. Provide a list of several names or a copy of the yellow page listings but do not recommend a specific individual or firm! Keep a copy of the list you provide.
3. It is generally a good idea to require agency disclosure on every transaction. Be familiar with your state's laws regarding when a written agency disclosure is required, at what stage it must be completed, and who must be provided with signed copies. Typically, agency relationships should be disclosed as soon as possible, but in any event, prior to providing specific assistance to the client. For example, buyers should be advised if the agent showing them the house is the seller's agent.
4. Document conversations, recommendations, and activities in a log. It is also often helpful to document conversations by sending a brief follow up email. Keep organized, detailed records of all real estate transactions. This is often required by state law, will assist you in recalling details, and will be helpful to an attorney if a defense is needed in the future.
5. Brokers should have regular meetings with their firms' licensees and remain informed as to their activities. Establish consistent guidelines and make sure everyone in the firm understands and complies with them.
6. Listing agents should have the seller complete any required property disclosure form. This form should never be filled out by the real estate licensee. Additionally, if any issues arise while the property is listed, advise the seller to update the disclosure form accordingly.
7. Recommend that buyers obtain a home warranty and retain written evidence of the recommendation.
8. Recommend that buyers obtain a home inspection. If they decline, have them sign a form confirming this decision.
9. Many states and associations have standard contract forms. It is wise to address items that are outside of standard form language with the client's legal counsel, or else the real estate licensee risks the unauthorized practice of law.
10. When information is obtained from a third party, it is often a good idea to disclose the source when making representations, because sometimes information from what appears to be a valid source turns out to be inaccurate. For example, if you believe a property is on city sewer based on a prior listing or a statement by the city utility office, disclose the source of your representation.

Prepared by Rice Insurance Services Company, LLC, April 3, 2013. CNA is a service mark and trade name registered with the US Patent and Trademark Office. The program referenced herein is underwritten by Continental Casualty Company, a CNA insurance company. This information is for illustrative purposes only and is not a contract. Nothing herein should be construed as legal advice or advice regarding any applicable standard of care. Rather, this information is intended to provide a general overview of certain products, services, and situations encountered in the course of our business. This information does not amend any E&O policy in any way. Only the policy can provide actual terms, coverages, amounts, conditions, and exclusions. The E&O program described herein is only available in certain states, and the information contained herein may not apply to your geographic area. In the event of a claim, the nature and extent of coverage is determined based on the claim's facts, circumstances, and allegations and application of the relevant policy's terms, conditions, and exclusions. © 2013

RISC Rice Insurance Services Company, LLC
PO Box 6709, Louisville, KY 40206-0709

Phone: (502) 897-1876 Toll Free: (800) 637-7319 Fax: (502) 897-7174 Website: www.risceo.com