



## **LEGAL FAQs: Wearing Multiple Hats (Agent & Executor) and Unlicensed Assistants**

*Christal Park Keegan, NVR Legal Information Line Attorney  
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**Q1. When a property is going through probate, can a real estate agent sell a house and also act as personal representative of the estate?**

**A1.** Wearing multiple hats can be tricky because there are inherent conflicts of interest between the fiduciary duties owed to the estate and the agent's self-interest in gaining a commission for the sale of the estate's real property. The follow-up question from agent's is often: "Can't we just make a disclosure to all parties?" *A disclosure does not overcome the fiduciary duties that an executor must always put the best interests of the trust/estate before his/her interests.* Always consult the broker for guidance. Together, the agent and broker can discuss brokerage policies and explore options such as, considering if referring the sale of the home(s) to another agent within the brokerage without any expectation of the agent-executor of receiving commission/referral fees is feasible. The broker can also determine if this is something the brokerage can take on by checking on E&O coverage and policy exclusions. Lastly, consult an attorney to assess the workability.

**Q2. Can an unlicensed assistant meet clients or potential buyers at the property and unlock the door for viewing?**

**A2.** Yes, but with very strict rules. An unlicensed assistant is pretty much limited to just opening the door for visitors. They cannot discuss *anything* about the property. One thing brokerages can do to ensure an unlicensed assistant does not cross the line into license-required territory is consider having licensed assistants instead.

For more information, please review the Nevada Real Estate Division's Informational Bulletin #010 which provides guidance on the can and can't dos of an unlicensed assistant: [ib10-unlicensedassistants.pdf \(nv.gov\)](#)

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