

# SELLING YOUR HORSE THROUGH A BROKER

By Armand Leone, Jr. and Jessica E. Choper

**H**orse brokers can serve a very useful purpose and help ease and facilitate the daunting process of selling your horse. When you enlist the help of a broker, you enter into an agency relationship, meaning that you're allowing the broker to act as an agent on your behalf in the sales transaction.

It's important to keep in mind that in any situation where someone is acting on your behalf, there is risk. Some up-front research and homework can help minimize the risk and can help you navigate matters in the event the sales process does not go as planned.

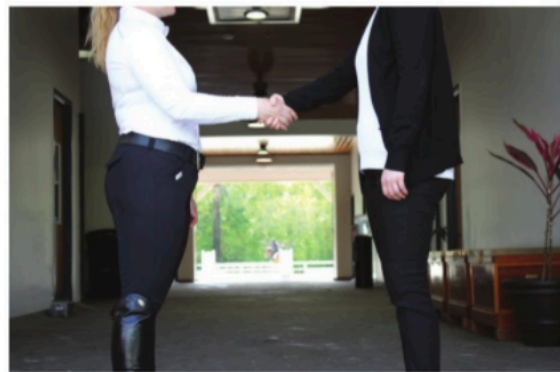
## THE HOMEWORK

Even if you have a trainer who's well-versed in selling horses, make sure to do your homework and gather background information about more than one broker. Online searches and references from fellow horse owners that have had prior experience with the potential brokers will help give you a well-rounded picture of the brokers' operations.

Start by understanding whether the broker generally focuses their sale stock on a certain discipline. Tapping a broker experienced in your horse's discipline often means that the broker will be able to offer your horse to a larger pool of relevant potential buyers. You'll also want to think about the price categories of the horses for sale by the brokers you're considering. Does the broker sell horses in the range of a few thousand dollars, the mid-five figure range, or upwards of six figures? Finding a broker experienced in selling horses similar in quality, discipline and price to your horse may be an indicator of the broker's compatibility and potential success in selling your horse.

Once your research leads you to a suitable broker, set aside time to discuss your goals and what the broker will do to help you achieve them. While you'll want to align on the target sale price of the horse, you'll also want to discuss the specific efforts the broker will take to accomplish this goal and your involvement, if any, in the process. You'll want to talk through things such as whether or not you're going to continue to ride your horse and train with the broker while the horse is for sale or whether you will be taking a more hands-off approach, having the broker be responsible for training and making sure your horse stays in top condition for ultimate marketability.

Be very clear up front about the broker's responsibilities. In addition to clarifying who will ride and train the horse, identify who will be responsible for preparing sale videos and narratives; advertising costs and efforts and your involvement in the preparation of these marketing assets; and veterinarian and farrier care. If the broker conducts a lot of business at horse shows, make sure you're clear about whether your horse will be competed at shows and who will pay for related costs. If the broker finds a potential buyer, will you allow the horse to go out on trial, with what stipulations, and will the broker have the authority to send the horse on trial without your specific permission? These issues highlight the importance of communication and whether you require constant communication with the broker or only limited communication when meaningful developments occur. Agree upon a schedule of communication that's realistic for both you and the broker.



## COMMISSION AND PAYMENT STRUCTURE

Before you turn your horse over to the broker, make sure that you've outlined the commission structure and how the broker will be paid for their services in writing. Relatively straightforward measures such as discussing and documenting the rate can minimize the risk that the broker will make an undisclosed profit from selling your horse. All too often, we've heard horror stories of an unassuming seller discovering that the broker sold a horse for far more than the seller was paid. When a suitable buyer comes along, require that payment be made directly to you rather than having the broker receive the payment and then make payment to you. Brokers commonly earn a commission of 10-15% in connection with sales, but it can vary depending on circumstances.

Another thing to consider is how the expenses of the horse will be paid when it's sold. If the horse doesn't sell immediately or goes to competitions so potential buyers can see it, who pays for those expenses and when? This should be decided before sending the horse. What you want to avoid is a situation where the broker has the horse for a long period of time, runs up expenses over which you have no control, and the broker tacks on an expense bill at the time of the sale. Under the law and horseman's lien statutes, the owner can be responsible for these costs. An open-ended agreement where expenses are not capped or controlled leaves the owner responsible for paying them out of the sale. Address these concerns at the outset.



Armand Leone, Jr., MD, JD, MBA, and attorney Jessica E. Choper of Leone Equestrian Law provide legal services and consultation for equestrians, ranging from riders and trainers to owners and show managers in the FEI disciplines on a wide variety of issues. Learn more by visiting [www.equestriancounsel.com](http://www.equestriancounsel.com).

Do you have a question you want Armand and Jessica to answer?  
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## DUAL AGENCY


Dual agency occurs when the broker serves as the agent for both the seller and buyer in the same transaction. Certain states, including California, Florida and Kentucky, make it unlawful for a broker to act as an undisclosed dual agent in certain types of horse sale transactions. Check the legislative mandates in your state to see if any restrictions exist with regard to dual agency. For example, with some exceptions, depending upon the dollar amount involved and the nature of the horse being sold, Kentucky makes it unlawful for an agent to represent both the buyer and the seller in a transaction unless the agent discloses the dual representation in advance in writing, and both buyer and seller agree to the dual agency and put their consent in writing.

## THE WRITTEN AGREEMENTS

Make sure you have a written agreement signed by you and the broker that covers how the key issues identified above will be handled. Pinpointing and documenting

the responsibilities and limitations of the broker, the commission to be paid, and costs associated with maintenance and sale of the horse, among other items, can help ensure fair dealing between broker and seller, manage expectations and guard against unwanted surprises.

In addition to the contract that covers the nature of the relationship between seller and broker, to ensure transparency in the transaction, it's critically important to have a well-crafted bill of sale. It should include, at a minimum, the identification of the parties involved; the horse including name, identifying characteristics and registration numbers; disclaimer of warranties; sale price; availability and accomplishment or denial of vetting and pre-purchase rides/trial, and dual agency, if applicable.

Choosing the best agent for your needs, clarifying expectations prior to beginning the process, and crafting a thorough bill of sale will help ensure a seamless and satisfying sale process. 

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