

Second Quarter 2009

RESPRO[®] Magazine

Making Sense of
Busby: Is Your
Pricing RESPA
Compliant?



RESPRO® Magazine

ABOUT RESPRO®

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To promote the efforts of settlement service providers to deliver convenient, innovative and cost effective services to home buyers and home owners through business alliances across industry lines.

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Affiliated business arrangements (AfBAs) have been a cornerstone of the Orange Coast Title (OCT) business model since our humble beginnings in 1974. This business model continues today and OCT is proud of its joint venture partners, which represent some of America's most respected and professional real estate brokerages.

OCT always has appreciated and supported RESPRO®'s efforts to stay abreast of current laws and regulations that affect AfBAs and to communicate that information to its members in order to influence potential changes that could damage the affiliated business model. RESPRO® works hard to maintain a federal and state regulatory environment that allows legally-compliant AfBAs to continue to operate. It is important to OCT that the "rules don't change in the middle of the game". The education and networking at RESPRO® events are valuable as well.

I decided to run for 2009 RESPRO® Chair because the real estate industry is at a historical crossroad and decisions that are made now will effect the way real estate transactions will be conducted for decades to come. This realization is shared by many if not most in our industry; thus, you have many institutions and people that are working hard to change the dynamic to benefit their own situation or business model.

This has and will include attacks on AfBAs by those companies who have decided not to utilize this legally sound and dynamic business model. Therefore, it is increasingly important to remain vigilant to support the rights of those who promote "one stop shopping", which consumers have decided they favor again and again.

As I begin my term as RESPRO® Chair, I see several pressing issues for our organization:

- ◆ RESPRO® first of all must face the financial and membership issues that its members and the entire real estate Industry also are facing in the current extremely difficult marketplace and economy. Cutting costs and working hard to maintain revenue streams are critical.
- ◆ RESPRO® must continued its valuable work with HUD as it implements and develops RESPA regulations, with the goal of ending up with the best possible rules for the industry and with the understanding that consumers overwhelmingly favor one stop shopping.
- ◆ RESPRO® must continue to voice the basic mantra of legally-compliant affiliated business arrangements, which is that real estate brokers, homebuilders, and mortgage lenders have a right to own an interest in another settlement service provider in order to provide a valuable competitive service to their consumers.
- ◆ RESPRO® must continue to fight vigorously the voices who claim that in and of themselves AfBAs are a "conflict of interest". We must show that most real estate brokers, homebuilders, mortgage lenders, and other settlement service providers have the consumer's best interests at heart and participate in one-stop shopping so that they can provide the best service and product and value available to their consumer clients.

- ◆ RESPRO® must continue to support the industry in providing real estate consumers a better home buying and home financing experience and value. We have the best property ownership and transfer system in the world. RESPRO® members have led the way in providing the services and products that make that true and possible. Nowhere else in the world is real estate so valuable and so easily transferred and encumbered as in the United States. This, in no small way, has led America into its position as a world economic power and real estate, literally and figuratively, has been the bedrock of that economic prosperity.

I look forward to working with RESPRO® Vice Chair Kevin Breeland of Residential Mortgage LLC, President Sue Johnson of RESPRO®, Secretary Brian Levy of Shelter Mortgage, Treasurer George Eastment of Long and Foster Companies, 2008-2009 Chair Ron Peltier of HomeServices of America, and 2007-2008 Chair Arthur Sterbcow of Latter and Blum Realtors in guiding RESPRO®'s activities over the coming year.

Sincerely,



Rich Malacuso

Rich Malacuso
President & COO
Orange Coast Title Company
Santa Ana, California

Making Sense of *Busby*: Is Your Pricing RESPA Compliant?

Most providers of real estate, mortgage, and other settlement services are well aware of RESPA's "anti-kickback" provision, which prohibits anyone from giving or accepting any "thing of value" for the referral of settlement services.

But what many providers haven't known until recently is that RESPA's anti-kickback provision is contained in only one subsection of the RESPA statute – Section 8(a). The subsection that follows it, Section 8(b), is known as RESPA's "unearned fee" or "fee-splitting" provision.

Whether Section 8(b) of RESPA allows consumers to challenge the amount of the fees they are charged at closing has been addressed by no less than six of the eleven Federal Courts of Appeals. Some have said no, because RESPA is not intended to be a "price-fixing" statute. Some have said that consumers can challenge fees under certain circumstances.

Then, on April 20, 2009, an Alabama federal district court judge went further than any Federal Court of Appeals has to date by stating in an opinion that consumers

But *Busby v. RealtySouth* has brought into stark relief the uncertain and confusing regulatory environment that real estate brokers, mortgage lenders, title companies, and other settlement service providers face today when pricing their services.

may challenge fees on their HUD-1 Settlement Statement that don't "directly benefit" them.

The case is called *Busby v. RealtySouth*. It is a class action lawsuit in which the plaintiff challenged a \$149 Administrative Brokerage Commission (ABC) fee charged by a real estate brokerage firm.

Most RESPA attorneys believe the *Busby* ruling is an incorrect interpretation of Section 8(b). It likely will be appealed.

But *Busby v. RealtySouth* has brought into stark relief the uncertain and confusing regulatory environment that real estate brokers, mortgage lenders, title

companies, and other settlement service providers face today when pricing their services. Since a RESPA violation could result in civil money penalties up to \$10,000, treble damages to an aggrieved party, and/or criminal prosecution resulting in imprisonment for up to one year, it's an unsettling situation.

And unfortunately, unless or until the Supreme Court decides to resolve the issue, this confusion will continue.

Section 8(b): The Source of the Confusion

Section 8(b) is a subsection of RESPA that is titled "Splitting Charges". It consists of only the following few lines:

"No person shall give and no person shall accept *any portion, split, or percentage of any charge* made or received for the rendering of a real estate settlement service in connection with a transaction involving a federally related mortgage loan other than for services actually performed." (Emphasis added).

Sue Johnson has served as President and Executive Director of RESPRO® since it was founded in 1993. Prior to her current role, she was Director of Government Relations for the Coldwell Banker Real Estate Group, Legislative Counsel for the Sears, Roebuck and Co. Financial Network, Senior Legislative Assistant for the U.S. Department of Housing and Urban Development (HUD), and an attorney for the U.S. Office of Consumer Affairs.





The language in Section 8(b) is ambiguous, and there is minimal legislative history as to what Congress intended when it enacted it in 1974. But Congress *did* make clear that RESPA was not intended to be a “price-fixing” statute. Moreover, the title of the subsection is “Splitting Charges”, and it only refers to accepting “any portion, split, or percentage of any charge”.

Therefore, most RESPA attorneys believe that Congress only intended Section 8(b) to cover situations where two or more providers actually “split” a fee for which no settlement services are performed. An example of such a situation would be when a title company purchases a credit report from a third-party vendor, marks up the price without providing any additional services, and then splits the unearned markup with the third-party vendor.

The confusion began when the Department of Housing and Urban Development (HUD), the primary federal regulator under RESPA, decided that Section 8(b) should be more than a “fee-splitting” prohibition and should be a means for consumers to challenge the amount of their closing fees.

HUD Interprets Section 8(b) Broadly

Two years after RESPA was enacted, HUD expressed its informal opinion in its 1976 Settlement Service Booklet that Section 8(b) of RESPA prohibits *any* fee that is “unearned,” even if it is not split with another provider.

▣ The language in Section 8(b) is ambiguous, and there is minimal legislative history as to what Congress intended when it enacted it in 1974. But Congress *did* make clear that RESPA was not intended to be a “price-fixing” statute.

In 2001, the Seventh Circuit Court of Appeals disagreed with HUD and ruled that so-called “unearned” fees *do* have to be split in order for RESPA to be violated. HUD responded by “formalizing” its position. In a 2001 RESPA Policy Statement, it stated that Section 8(b) prohibits *all* of the following fees:

“Split” fees: Where two or more persons split an unearned fee;

Third party mark-ups that are not split: Where one settlement service provider marks up the cost of a service or goods of a third-party provider, does *not* split the difference with anyone, and doesn’t provide goods or services to justify the mark-up; and

Direct charges to consumers: Where one settlement service provider charges a consumer a fee and:

- ◆ No, nominal, or duplicative work is done; or
- ◆ The fee is in excess of the reasonable value of goods or services provided.

In a RESPRO® member news article published shortly after the release of HUD’s 2001 Policy Statement, Phil Schulman of Kirkpatrick and Lockhart (now K&L Gates, LLP) said that he believes HUD’s interpretation is wrong. “Section 8(b) of RESPA was not intended to apply to charges directly imposed on consumers

by settlement service providers,” he said. “Taken to its logical extreme, HUD’s view would mean that settlement service providers cannot increase their fees, cannot unbundle services, and cannot charge for services that they previously provided for free. RESPA was never intended to rigidly control prices.”

HUD has not pursued a major enforcement action in this area since 2003, when it announced that Allied Home Mortgage Corporation had agreed to pay \$370,000 in a settlement in which it was accused of marking up credit reports it purchased from a third party without providing sufficient services to justify the mark-up (Allied did not admit liability or wrongdoing.)

The plaintiff’s bar, however, is trying to enforce HUD’s position on Section 8(b) through class action lawsuits. So far it has had mixed results.

The Contradictory Court Decisions Before *Busby*

Since 2001, six different federal Courts of Appeals have ruled in eleven class action lawsuits involving Section 8(b) of RESPA. Some of the lawsuits involved mark-ups of settlement services purchased from third parties that weren’t split with the third party vendor. Some involved direct settlement service fees to consumers.

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Three Courts of Appeals with jurisdiction over fifteen states have ruled that a real estate broker, mortgage lender, or other settlement service provider *can* mark up a third party fee or charge the consumer any amount it wishes *without* violating Section 8(b) as long as it doesn't split the unearned fee with another person. Their

However, even these courts had significant differences. For example, the Eleventh Circuit Court of Appeals in *Sosa v. Chase Manhattan Mortgage* said that a third party mark-up did *not* have to be split in order to be actionable under Section 8(b), but nevertheless ruled that the lower court properly dismissed the case that had challenged Chase's mark-up of a courier fee because all that is required to avoid liability under Section 8(b) is to perform *some* service to justify the mark-up (in this case Chase had arranged for the courier to deliver the papers).

Are you confused yet? You may become even more so after you read about *Busby v. RealtySouth*.

The *Busby v. RealtySouth* Opinion

In *Busby v. RealtySouth*, Plaintiff Busby claimed that JRHBW Realty Inc., an Alabama-based company that does business as RealtySouth, charged a \$149 Administrative Brokerage Commission (ABC) Fee for which no services were provided or for which duplicative services were provided, in violation of Section 8(b).


RealtySouth argued that the \$149 was simply an increase in its percentage real estate brokerage commission that it charges for all of its brokerage services and only was disclosed as a separate flat fee because, unlike the commission, it was not split with its real estate agents.

This type of fee is not uncommon in the real estate brokerage industry. Even before the downturn in the housing market, many real estate brokerage firms had shrinking revenues and declining profit margins.

According to the most recent REAL Trends Top 500 Brokerage Performance Report, the amount of the real estate commission that the top 500 real estate brokerage firms paid out to their independent contractor agents rose from 68.8 percent to 74.2 percent between 1998 and 2008, leaving them with only 25.8 percent of each commission at a time when they needed to spend more on technology, regulatory compliance, and enhanced services that the consumer was demanding.

As a result, the per-transaction profit of the top 500 real estate brokerage firms over the same 10-year period declined almost 20 percent, from \$178 to \$145. Their average profitability declined from 7.4 percent to 0.4 percent.

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 Many real estate brokerage firms therefore began to charge an additional flat-dollar fee in addition to the real estate commission. Their only other options were to cut back on services, renegotiate their agent commission splits and face losing their best agents to their competitors, or raise the "percentage" real estate commission...by a larger amount than the flat dollar fee...

reasoning was that Section 8 of RESPA is essentially an anti-kickback statute and that unearned fees need to be split to be actionable under RESPA, which Congress made clear is not a price-fixing statute. Therefore, they said they did not need to defer to HUD's position.

Three Courts of Appeals with jurisdiction over ten states have ruled that a real estate broker, mortgage lender, or other settlement service provider *can* violate Section 8(b) if it marks up a third party service without providing additional services to justify the markup.

This ruling ran directly contrary to HUD's position; in fact, HUD filed an amicus brief that urged reversal.

In fact, all of the Courts of Appeals have indicated that HUD's position that a direct charge that *exceeds* the reasonable value of the goods or services provided is wrong. In *Cohen v. J.P. Morgan Chase*, however, the Second Circuit Court of Appeals appeared to distinguish a charge for which *some* service is provided (even though its market value may not justify the charge) with a charge for which *no* service is provided, finding only the latter charge actionable under Section 8(b).

LEGAL SCORECARD:

THE SECTION 8(b) LEGAL PRECEDENTS IN YOUR STATE(S)

[Click here](#) for a Summary of the Section 8(b) Court of Appeals opinions noted below.

First Circuit: [Maine, New Hampshire, Massachusetts, Rhode Island, Puerto Rico](#)

The Court of Appeals for the First Circuit has not ruled on the standards governing a Section 8(b) action in these states. Therefore, legal experts advise that for planning purposes, you should assume that courts with jurisdiction in these states in the future will take the more restrictive approach of the Second, Third and Eleventh Circuits.

Second Circuit: [Vermont, Connecticut, New York](#)

Consumers *may* challenge mark-ups of third-party fees under Section 8(b) even if the mark-up is not split with another provider. Consumers may challenge direct charges under Section 8(b) for which *no* “settlement services” are performed. Consumers may *not* challenge direct charges under Section 8(b) if *some* settlement service was performed, even if the amount of the charge exceeded the value of the settlement service. (see [Kruse v. Wells Fargo Home Mortgage](#) and [Cohen v. JP Morgan Chase](#))

Third Circuit: [Delaware, New Jersey, Pennsylvania, Virgin Islands](#)

Consumers *may* challenge markups of third-party fees under Section 8(b) even if the markup is not split with another provider. Consumers may *not* challenge direct charges under Section 8(b) even if no settlement services were provided or if the charge exceeded the value of the settlement service (see [Santiago v. GMAC Mortgage](#))

Fourth Circuit: [Maryland, Virginia, West Virginia, North Carolina, South Carolina](#)

Consumers may *not* challenge mark-ups of third party fees under Section 8(b) if the mark-up is not split with another provider (even if charges are split with another provider, they are defensible if reasonable services were provided). Consumers may *not* challenge direct charges under Section 8(b) even if no settlement services were provided or if the charge exceeded the value of the settlement service (see [Boulware v. Crossland Mortgage Corporation](#) and [Arthur v. Ticor Title Ins. Co.](#)).

Fifth Circuit: [Mississippi, Louisiana, Texas](#)

The Court of Appeals for the Fifth Circuit has not ruled on the standards governing a Section 8(b) action in these states. Therefore, legal experts advise that for planning purposes, you assume courts in these states in the future will take the more restrictive approach of the Second, Third, and Eleventh Circuits.

Sixth Circuit: [Michigan, Ohio, Kentucky, Tennessee](#)

The Court of Appeals for the Sixth Circuit has not ruled on the standards governing a Section 8(b) action in these states. Therefore, legal experts advise that for planning purposes, you assume courts in these states in the future will take the more restrictive approach of the Second, Third, and Eleventh Circuits.

Seventh Circuit: [Wisconsin, Illinois, Indiana](#)

Consumers may *not* challenge mark-ups of third party fees under Section 8(b) if the mark-up is not split with another provider. Consumers may *not* challenge direct charges under Section 8(b) even if no settlement services were provided or if the charge exceeded the value of the settlement service (see [Krzalic v. Republic Title Co.](#) and [Echevarria v. Chicago Title and Trust Co.](#))

Eighth Circuit: [North Dakota, South Dakota, Nebraska, Minnesota, Iowa, Missouri, Arkansas](#)

Consumers may *not* challenge mark-ups of third party fees under Section 8(b) if the mark-up is not split with another provider. Consumers may *not* challenge direct charges under Section 8(b) even if no settlement services were provided or if the charge exceeded the value of the settlement service (see [Haug v. Bank of America N.A.](#)).

Ninth Circuit: [California, Oregon, Washington, Idaho, Montana, Nevada, Arizona, Alaska, Hawaii](#)

The Court of Appeals for the Ninth Circuit has not ruled on the standards governing a Section 8(b) action in these states. Therefore, legal experts advise that for planning purposes, you assume courts in these states in the future will take the more restrictive approach of the Second, Third, and Eleventh Circuits.

Tenth Circuit: [Utah, Wyoming, Colorado, New Mexico, Kansas, Oklahoma](#)

The Court of Appeals for the Tenth Circuit has not ruled on the standards governing a Section 8(b) action in these states. Therefore, legal experts advise that for planning purposes, you assume courts in these states in the future will take the more restrictive approach of the Second, Third, and Eleventh Circuits.

Eleventh Circuit: [Alabama, Georgia, Florida](#)

Consumers *may* challenge mark-ups of third party fees under Section 8(b) even if the mark-up is not split with another provider. Consumers *may* challenge direct charges under Section 8(b) for which *no* “settlement services” are performed. A “settlement service” is that which either directly benefits the consumer or is performed at or before the closing. Consumers may *not* challenge direct charges under Section 8(b) if *some* settlement service was performed, even if the amount of the charge exceeded the value of the settlement service (see [Sosa v. Chase Manhattan Bank](#) and [Friedman v. Market Street Bank](#)).

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Many real estate brokerage firms therefore began to charge an additional flat-dollar fee in addition to the real estate commission. Their other options were to cut back on services, renegotiate their agent commission splits and face losing their best agents to their competitors, or raise the “percentage” real estate commission. If they did the latter, they would need to raise the commission by a larger amount than the flat-dollar fee since the percentage commission increases normally are split with the agent.



Because of the conflicting court decisions, one important thing to remember upfront is that where you do business is relevant to the risk you take in pricing your services.

In *Busby v. RealtySouth*, RealtySouth pointed out that the \$149 ABC fee was disclosed to the buyer and seller in their initial contracts as part of the overall commission. It also said that it provided an “array of services” that justified the fee, including an enhanced web site, an on-line magazine, and other technological developments that helped sellers and home buyers. RealtySouth also argued that the fee was a price increase to its commission structure designed not only to offset the cost of new services but the rising cost of doing business.

U.S. District Court Judge Virginia Hopkins rejected RealtySouth’s motion for a summary judgment, saying that she did not believe that the ABC

fee was part of its overall commission but that she instead saw it as a separate line item that required a separate and non-duplicative service.

Relying on a lower court decision in *Cohen v. J.P. Morgan Chase* after the case was remanded back by the Second Circuit Court of Appeals, Hopkins said that RealtySouth would have had to provide “settlement services”, which the lower court in *Cohen* defined as occurring at or before closing *and* directly benefiting the consumer.

In Hopkins’ opinion, the services that RealtySouth said it provided for the ABC fee were duplicative of services provided to justify the real estate commission and did not directly benefit the consumer.

“The court has difficulty accepting RealtySouth’s proposition that a closing charge attributable to an ill-defined or non-specific set of services could ever be legal sufficient to defeat a Section 8(b) claim,” she stated.

Many lawyers specializing in RESPA believe that Judge Hopkins’ decision in the *Busby* case was based on an inaccurate reading of RESPA.

“It was a strained and determined approach to find no services,” Schulman of K&L Gates said in a [May 20 RESPRO® Audio Seminar](#) on the subject. “Where does this come from? It may come from *Cohen* but certainly not from RESPA.”

How to Minimize Your Legal Risks

Despite the skepticism of RESPA experts over the *Busby* ruling, no real estate broker, mortgage lender, or other settlement service provider wants to become the subject of HUD’s first enforcement action under Section 8(b) or the defendant in the next class action lawsuit. In addition, no one wants to risk violating any federal or state unfair trade practice act.

RESPA attorneys, however, advise that there still are ways that you can charge an additional fee for a specific, new service or increase your fees for existing services.

Because of the conflicting court decisions, one important thing to remember upfront is that where you do business is relevant to the risk you take in pricing your services. This is because a ruling by a Federal Court of Appeals becomes the legal precedent for other cases brought in the states under their jurisdiction.

On the preceding page is a “Legal Scorecard” of the legal precedents for Section 8(b) cases in all 50 states. Note that in many states there is no binding legal precedent because the Courts of Appeal for those states have not had the opportunity to rule on challenges involving unsplit mark-ups or direct charges. Many RESPA lawyers advise providers in those states to assume the worst and to follow the precedents set by those Courts of Appeal that have taken the most restrictive interpretations.

Regardless of the state in which you do business, RESPA lawyers advise you to follow certain guidelines when charging additional fees or increasing your fees that can reduce consumer confusion (see “Tips to Minimize Your Legal Risks When Pricing Your Services” on page 22.)

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Tips to Minimize Your Legal Risks When Pricing Your Services

Fees for a Specific New Service

- ✓ Make sure that the service for which you charge the fee is not duplicative of any other service for which you or your sales personnel charge a fee, whether it is through a real estate brokerage commission, a loan origination fee, a loan processing charge, or a title or closing charge.
- ✓ Pick a clear, accurate name for the charge that clearly and accurately describes the service it covers. Do not call it an “administrative” fee or a “regulatory compliance” fee.
- ✓ Charge the fair market value for the service.
- ✓ Clearly disclose the fee in the listing agreement, the buyer broker agreement, in the Good Faith Estimate, and in seller proceeds or buyer closing cost calculations.
- ✓ Provide specific instructions to the closing agent to put it on a separate line on the HUD 1.
- ✓ If a closing agent tells you that their software automatically puts the charge on another line on the HUD-1, or does not follow your disclosure instructions for some other reason, document your instructions in a letter to the closing agent.
- ✓ Prepare written documentation describing the nature and cost of the service that justifies the new fee.
- ✓ Be careful about categorically excluding a particular class of consumers or customers from the charge, since some courts have found this could suggest that the fee is unnecessary.
- ✓ If the fee is a new service, you may want to make the new service optional. Forcing consumers to purchase a service that they do not want could raise other legal issues.
- ✓ Consult with a legal expert who knows the area.

Fees to Cover Additional Costs

- ✓ If you are a listing real estate broker, you would be subject to the least legal risk if you increase the percentage real estate commission and let your contract with your sales agents determine the change, if any, in the way the commission would be split.
- ✓ If you are a real estate broker and do not want to raise the percentage commission, you should add a flat fee to the percentage commission (e.g., 6% plus \$200), making it clear to the consumer that the fee is part of the overall commission. Do not try to justify it as a separate fee for specific activities.
- ✓ Clearly disclose the fee in the listing agreement, the buyer broker agreement, in the Good Faith Estimate, and in seller proceeds or buyer closing cost calculations.
- ✓ Provide clear instructions to the closing agent that the percentage commission plus flat fee (e.g., 6% plus \$200) should be disclosed on a single line on the HUD-1 Settlement Statement (the 701 line if the seller is paying it and on the 702 line in the HUD-1 if the buyer is paying it). (Note: On Busby’s HUD-1, the \$149 ABC fee was entered on line 704, a space HUD advises “may be used for additional charges made by the sales agent or real estate broker”).
- ✓ If a closing agent tells you that their software automatically puts the charge on another line on the HUD-1, or does not follow your disclosure instructions for some other reason, document your instructions in a letter to the closing agent.
- ✓ Note that the new [standardized HUD-1 Settlement Statement](#) that will become mandatory on January 1, 2010 seems to facilitate the above disclosure, because it calls for commissions to be entered as dollar amounts rather than percentages.
- ✓ Consult with a legal expert who knows the area.

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Following these guidelines also can minimize your risks under federal and state laws and regulations other than RESPA.

For example, the Federal Trade Commission (FTC) Act prohibits unfair and deceptive trade practices or methods of competition. While there is no private right of action for consumers or competitors under the FTC Act, they have the right to complain to the FTC, and the FTC has the right to bring an action to enjoin the conduct or to recover civil penalties. Many states also have their own unfair trade practices acts with private rights of action.

Those statutes are concerned with “bait and switch.” If a provider doesn’t disclose a fee upfront and the borrower sees an additional charge at closing, they could attempt to challenge that fee under the FTC Act and certain state laws.

The Federal Housing Administration (FHA) relaxed its historical opposition to real estate buyer brokerage fees a few years ago. However, charges imposed on buyers (not sellers) who finance their home purchases with Veterans Administration (VA) loans have historically been prohibited under VA rules. It remains to be seen whether VA will try to prohibit buyer brokerage fees or commissions with a percentage and a flat fee component.

Conclusion

Real estate brokers, mortgage lenders, and other settlement service providers should be allowed to charge what they want for their services, as long as the charges are clearly disclosed to the consumer before he/she makes a decision on whether to use their services.

Nevertheless, it is a confusing regulatory environment unless the Supreme Court decides to rule on how settlement service providers should price their services under RESPA, or unless HUD decides to provide more regulatory guidance.

So if you decide to charge an additional fee or to increase a fee, be sure you understand the legal precedent in the states in which you operate, follow the tips in this article, and consult with counsel that is knowledgeable about Section 8(b) of RESPA. ■

CD Now Available!

“Making Sense of *Busby*: Is Your Pricing RESPA Compliant?”

A recent federal district court ruling in *Busby v. RealtySouth* over a real estate broker’s administrative brokerage fee has triggered even more confusion among real estate brokers, mortgage lenders, homebuilders, and other settlement service providers over how to price their services under the Real Estate Settlement Procedures Act (RESPA).

In this 75-minute RESPRO® Audio Seminar ranked as “Excellent” by 100% of the attendees in post-seminar evaluations, two of the nation’s leading RESPA experts – Jay Varon

of Foley & Lardner LLP and Phillip Schulman of K&L Gates LLP — gave a “lay of the land” of how RESPA governs the fees you charge in your marketplace and provide you tips on how to minimize your legal risks when pricing your services.

To order your CD, [Click Here](#).

