



Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

Matter of: Charlie F. Beecham

File: B-247315

Date: May 18, 1992

## DIGEST

An employee may not be reimbursed for the real estate broker's fee he paid incident to the purchase of a new residence. The services provided by the broker, including negotiating on behalf of the employee, are within the scope of services that licensed real estate brokers provide by definition under the applicable state law. Moreover, the broker did not act as a neutral party in conducting the settlement, and, therefore, may not be considered a settlement agent.

## DECISION

Mr. Charlie F. Beecham, an employee of the United States Department of Interior, Bureau of Land Management, appeals the agency's denial of his claim for reimbursement for a fee included in the purchase of a new residence incident to a permanent change-of-station transfer in 1990 from Montrose, Colorado, to Farmington, New Mexico. We deny the claim.

At issue is whether a \$951.76 fee paid to a licensed real estate broker is a broker's fee, for which reimbursement is expressly prohibited under the Federal Travel Regulation<sup>1</sup>, or a settlement agent's fee, which we allowed as an incidental expense<sup>2</sup> in Brock and Van Orden, 67 Comp. Gen. 503 (1988).

According to Mr. Beecham, the broker reviewed all the contracts, negotiated with the sellers, constructed the offer and counter offer and arranged for all incidental actions to be taken. In her own letter to the agency, the broker stated that her role, among others, was to serve as Mr. Beecham's representative at close of escrow. In a letter to the sellers, which she signed over the title

<sup>1</sup>41 C.F.R. § 302-6.2(a) (1991).

<sup>2</sup>41 C.F.R. § 302-6.2(f) (1991).

"Broker", she identified herself as "a Buyer's agent and as such will be negotiating on (Mr. Beecham's) behalf . . . ." The settlement sheet lists her fees as a broker's fee. Furthermore, for licensing purposes, the definition of a real estate broker includes one who for a fee or commission negotiates the purchase of real estate. New Mexico Statutes Annotated, Chapter 61 Article 29-2 (1990).

Upon our review of the entire record, we conclude that the fee disputed here is a nonreimbursable broker's fee, rather than a settlement agent's fee. In Brock and Van Orden, supra, the lender conducted the settlement and the agent involved had no direct interest in the settlement transaction being conducted. On the contrary, in Harold R. Fine, B-224628, Jan. 12, 1988, we denied a claim similar to Mr. Beecham's, noting that the services provided were similar to those included in the relevant state's definition of licensed broker. In this case, the agent represented herself to the employee and to the sellers as a broker for Mr. Beecham and provided services within the scope of services that licensed real estate brokers provide by definition under New Mexico law.

Accordingly, the claim is denied.

*for Seymour Egan*  
James F. Hinchman  
General Counsel