

Riedinger



The Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

Matter of: Brock and Van Orden - Reimbursement for Settlement Agent Fees

File: B-230372

Date: July 1, 1988

## DIGEST

Two transferred employees were denied reimbursement for settlement agent fees charged by the same lender who earlier charged them fees for originating their mortgage loans. The claims may be allowed. Each described activity is separate and distinct. Where a fee is charged a purchaser by an individual to act as settlement agent at a real estate closing, it may be allowed under FTR para. 2-6.2c and f, if it is customary in the locality for the purchaser to pay and does not exceed the usual amount charged in the area.

## DECISION

This decision is in response to a request from an Authorized Certifying Officer, Bonneville Power Administration (BPA), Department of Energy. It concerns the entitlement of two BPA employees to be reimbursed settlement agent fees incurred incident to permanent change-of-station real estate transactions. We conclude that the fees may be reimbursed for the following reasons.

### BACKGROUND

Messrs. Michael F. Brock and Richard J. Van Orden, employees of BPA, were transferred to Walla Walla, Washington, in June 1985 and February 1986, respectively. Both purchased residences near their new duty station in 1986 and submitted vouchers for real estate purchase expenses.

In both situations, the expenses claimed for settlement fees were disallowed on the basis that their mortgage lender, which was the same for both and which charged each of them a loan origination fee, also conducted the settlement on their respective properties. The Federal Housing Administration (FHA) advised BPA that separate fees should not be charged where a lending institution charges a loan origination fee and also conducts settlement on the

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property transaction since no additional costs are incurred associated with the sending of documents to another office for that settlement.

The Authorized Certifying Officer believes that such settlement costs should be reimbursed since two separate and distinct services are performed, the origination of a loan and the settlement or closing of the property transaction between the buyer and the seller. In this connection, the Authorized Certifying Officer points out that some lending institutions employ "limited practice officers" whose only job is to handle real estate settlement transactions.

Based on the above, the following questions are asked:

Would reimbursement for settlement agent fees charged by a lending institution depend on:

- a. Whether an FHA, VA or conventional loan was involved?
- b. Whether the fee was for the sale or for the purchase of a residence?
- c. Whether the lender employs limited practice officers?

#### RULING

Reimbursement for real estate related expenses is governed by chapter 2, part 6 of the Federal Travel Regulations (FTR), incorp. by ref., 41 C.F.R. § 101-7.003 (1986), as amended. Paragraph 2-6.2c of the FTR provides in part:

"c. Legal and related expenses. To the extent such costs have not been included in brokers' or similar services for which reimbursement is claimed under other categories, the following expenses are reimbursable . . . if customarily paid by the purchaser of a residence at the new official station, to the extent they do not exceed amounts customarily charged in the locality of the residence: . . . costs of preparing conveyances, other instruments, and contracts and related notary fees and recording fees . . ."

In addition, paragraph 2-6.2f provides:

"f. Other expenses of sale and purchase of residence. Incidental charges made for required services . . . may be reimbursable . . . if

customarily paid by the purchaser of a residence at the new official station, to the extent they do not exceed amounts customarily charged in the locality of the residence."

A loan origination fee is not included in the above-quoted general reimbursement provisions. It is separately listed in FTR para. 2-6.2d(1)(b) as a specifically reimbursable item.


Generally, a loan origination fee is a fee assessed a mortgagor by a lending institution to compensate the lender for its administrative costs associated with the extension of credit to the mortgagor. It would include, but is not entirely limited to, the processing of the prospective mortgagor's loan application, securing a credit investigation and reviewing all pertinent documents to determine whether the property to be purchased qualifies for the loan sought and whether the prospective mortgagor is financially able to repay the loan. Upon approval of the loan, the administrative process for which a loan origination fee is charged essentially terminates.

A settlement or closing on a purchase and sale of property is a separate and distinct activity and is not an integral part of the loan origination process, regardless of who may conduct settlement. It has been suggested that the fee covers the cost of moving documents from one office to another for closing. While this may be an activity which is included in the fee, considerably more is involved. The major part of conducting any settlement is insuring the proper disbursement of the funds represented by the purchase price. Title to the property must be traced and examined; the seller's mortgage or mortgages, if any, must be satisfied; real estate taxes owed by the seller paid; and the deed and other various and sundry release agreements must be prepared and executed. All these steps are necessary to assure that clear title can pass to the purchaser and the purchaser's mortgagee, and that the interests of all parties to the transaction are protected.

Normally, a fee is charged for the performance of such duties by the individual acting as settlement or escrow agent. That agent has no direct interest in the settlement transaction being concluded, even if he happens to be employed by the lending institution which is funding the mortgage loan. Therefore, in answer to questions a and c, reimbursement of the settlement agent fee would not depend on the type of financing or on whether the lender employed limited practice officers.

As to question b concerning reimbursement for the fee on a sale or purchase of a residence, we note that ordinarily administrative expenses charged by a settlement agent are to be borne by the purchaser. Thus, whether the mortgage lender makes such a service available or requires the use of its own service as a condition of extending credit, a service charge imposed on an employee as purchaser is reimbursable under FTR para. 2-6.2f to the extent that the conditions thereunder are met. Ronald L. Perkinson, B-188253, Sept. 28, 1977.

In the present situations, there seems to be little doubt that, as a matter of local practice, the basic obligation to pay the cost of settlement is on the purchaser and the costs assessed for that service were reasonable. Therefore, in the absence of information to the contrary, Mr. Brock may be reimbursed \$167.75 and Mr. Van Orden, \$101.75, for their settlement expenses.

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Comptroller General  
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