

LENDERS UPDATE™

ALT & ASSOCIATES NEWSLETTER

A COMPLIMENTARY SERVICE TO THE MORTGAGE LENDING INDUSTRY

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June 13, 2014

CFPB STRIKES ON RESPA

Sometimes when we give clients advice on the Real Estate Settlement and Procedures Act (“RESPA”), particularly as it relates to the prohibitions of Section 8 against kickbacks or referral fees, the client’s eyes tend to glaze over or a disbelieving smile comes to their faces. “This can’t be right.” “This is not the way it works in the real world.” These reactions are understandable because from a practitioner’s perspective illegal referral fees seem to be reasonably common.

The Consumer Finance Protection Bureau (“CFPB”) has just reminded us that this rule does not just exist in a vacuum. In an enforcement action against Stonebridge Title Services for paying illegal referral fees for referring title business, the Bureau said “Kickbacks drive up the cost of getting a mortgage and put law-abiding companies at a disadvantage.” We can certainly agree with the latter part of that statement.

Stonebridge was ordered to pay \$30,000 dollars in fines.

The company engaged independent contractors to find and refer title business to Stonebridge who then paid a commission of up to 40% for the business. Interestingly, if the independent contractors had been employees of Stonebridge the practice would not have been illegal. Paying your employees for the referral of settlement business to their own company is not a violation of law. Oh for the wont of a W-2!

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ALT & ASSOCIATES provides regulatory, compliance, operational advice and transactional assistance, as well as litigation representation, to the financial services industry. Over the past three decades, members of the firm have represented Institutional Lenders and Mortgage Bankers and Brokers in all aspects of their operations.

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