



OLDE KEY TITLE

RESIDENTIAL AND COMMERCIAL CLOSING SERVICES SINCE 1982

MEMORANDUM

From: Olde Key Title
Date: December 22, 2009
Re: Administrative Brokerage Commission (ABC)

- “A federal judge has held real estate brokerage firm RealtySouth liable for charging illegal fees to more than 30,000 consumers”.
- The U.S. District Court for the Northern District of Alabama, Southern Division held that RealtySouth had violated RESPA Section 8(b) “by illegally charging consumers a \$149 administrative brokerage commission (ABC) fee for which no service was performed.”
- “According to the court, RealtySouth described the ABC charge as covering several different aspects of the business, including a general increase in brokerage services; costs associated with regulatory compliance; significant increases in overhead; costs a buyer or seller incurs to do business; providing technology and availability of information; and the time spent locating and buying” the desired house.
- ““Because the services listed by RealtySouth (and regardless of whether they were actually provided) are not-settlement related and/or provide little or no benefit to the borrower, they cannot defeat a Section 8(b) no services claim,” noted the court.”
- Another case that the court took into consideration defined a ‘settlement service’ as ““that which either directly benefits the customer, or is performed at or before the closing.””
- With the above-mentioned definition of ‘settlement service’, the court “ruled that the services described in this case didn’t qualify as settlement services.”
- Attorneys quoted in the article at-hand stated that “brokers must be straightforward with consumers and disclose what the entire cost of their services is, define the services they are rendering for those additional payments and make certain that they come within the definition of settlement services.”

Source: RESPA News’ article titled “Attorneys warn brokers of RealtySouth’s ‘bad decision’”, posted online on April 23, 2009