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Disclosing the total fee you received for work in report

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Appraisers who engage in residential analysis are familiar with a requirement in most states who have licensed appraisal management companies (AMCs) to disclose, prominently in the body of the report, the total fee they received for their work. Typically disclosure is limited to an assignment placed with the appraiser by a state-licensed AMC. This requirement comes from an interpretation of the Dodd-Frank Act that requires a 'firewall' between any lender who receives compensation in direct relation to the issuance of a loan and the selection of the appraiser who prepares an opinion of value underwriting that loan. While larger lenders have the economy of scale to create an internal firewall and separate the appraisal department from the lending department, many lenders have chosen to use external AMCs to meet the requirements of the Act. This is to assist the lender in preparing a proper closing statement that under Dodd-Frank may separate the fee paid solely for the appraisal from the total fee to underwrite the loan including management fees, credit checks and other processing fees that now all fall into a single line on the closing statement.

However, when the State of Vermont wrote, passed and signed into law our AMC licensing statute there was a subtle change in the typical language. Vermont now requires an appraiser to disclose, prominently in the body of the report, the fee collected for the assignment in ALL appraisals. When the Vermont State Board of Appraisers saw this wrinkle they approached the legislature to restrict the fee disclosure requirement to work prepared in connection with an order placed by an AMC, and were rebuffed. The legislative committee asked why the fee should not be disclosed in all cases; does a borrower only have the right to know what they paid for the appraisal when the order is placed by a third party?

While I don't agree with it, I understand this logic as it relates solely to the issuance of a loan by a federally insured lender who operates under FIRREA. But I do not understand the requirement in ALL appraisal assignments as it is difficult for me to find a parallel to this service model anywhere else in American business practice. If I hire a general contractor, a third party acting on my behalf, to construct a building for me should the concrete finisher be required by law to disclose his fee for placing the concrete? To get a little deeper into parallels with appraisal practice, should the general contractor be required to place several concrete finishers on a blind rotating assignment schedule regardless of quality, delivery date or price? Or, as the State of Vermont has decided, when I contract with the concrete finisher myself should they be required by law to etch the price I paid into their finished product?

While we comply with the law I feel the Vermont requirement to disclose fee in all assignments violates, in some small way, my right to compete fairly on quality, delivery and price as well as the right of two parties to enter into a contract keeping the details of the contract between themselves.

Perhaps it just goes against my Yankee sensibilities to not be so rude as to include the price paid in the final work product. It feels like an auto dealer spray painting the price you paid for your car down the side as you leave the lot, or the concrete technician picking up a stick and scratching his fee into the freshly finished slab.

However, for the time being, please remember that if you are a credentialed appraiser in the State of Vermont you are required to disclose the fee paid for your service predominately in the body of the report in ALL assignments.

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