Real Life Scenario – RESPA Section 8

Jim is a licensed Mortgage Loan Originator with XYZ Mortgage Bankers in Charlotte, NC. He has a relationship with a realtor named Jennifer who supplies Jim with a number of closings each year. Jennifer is a licensed realtor who usually fills out the Uniform Residential Loan Application and faxes it to Jim. Jennifer does not have her Mortgage Loan Originator license. After receiving the 1003, Jim then pulls the credit report and gives Jennifer and her clients a prequalification and a Good Faith Estimate.

Jennifer called Jim with a new client, Mr. and Mrs. Brown. Mr. Brown is a veteran who wants to use his VA entitlement to purchase his home. This time, however, Jennifer asked Jim for money. She reasoned that since she is providing the completed 1003 and the customer, the Browns, Jim should share his origination with her. Jennifer has not and does not intend to disclose her relationship with Jim to the Browns.

Instructors, the students are asked to review this scenario from the three following perspectives:

(1) **Ethical** – Can Jennifer represent the Browns on two sides of the same transaction (the sales side and the financing side)?

Should Jim allow a third party to complete the Uniform Residential Loan Application?

(2) **Quality Control** – If Jim is not doing the actual interview, how can he ensure the quality of the loan package? Is this a concern for Jim? How about Jim's employer or the investor?

(3) **RESPA** – Would this be considered a "referral fee" according to RESPA? Are referral fees permissible or legal? HINT – RESPA Section 8 forbids giving or receiving "any thing of value" for referring a real estate loan. How does this relate?

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