



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

April 22, 2020

CBCA 6643-RELO

In the Matter of CHAD S. STEINBERG

Chad S. Steinberg, Chamblee, GA, Claimant.

Elizabeth Spears, Senior Counsel, Bureau of the Fiscal Service, Department of the Treasury, Parkersburg, WV, appearing for Department of the Treasury.

SOMERS, Board Judge (Chair).

Claimant, Chad S. Steinberg, seeks reimbursement in the amount of \$995 for the underwriting fee that he paid as one of the expenses for the purchase of a home at his new duty station. The Bureau of the Fiscal Service, Department of the Treasury (the agency), contends that the underwriting fee is not reimbursable. For the reasons stated below, the Board denies the claim.

Background

In August 2019, Mr. Steinberg purchased a home after transferring to his new duty station. Mr. Steinberg submitted a claim in the amount of \$4568.80 for reimbursement of various real estate transaction expenses. The closing disclosure form for the purchase showed that his real estate transaction expenses included an underwriting fee in the amount of \$995. The agency approved reimbursement in the amount of \$3769, but denied reimbursement for the underwriting fee. Subsequently, Mr. Steinberg filed his claim with the Board.

Discussion

The Federal Travel Regulation (FTR) identifies non-reimbursable expenses for the sale or purchase of a residence incident to a PCS. It prohibits reimbursement for any “finance charge” under the Truth in Lending Act, Title I, Pub. L. No. 90-321, as amended, and Regulation Z issued by the Board of Governors of the Federal Reserve System (12 CFR 226), unless specifically authorized in another part of the FTR. 41 CFR 302-11.202 (2019). A “finance charge” is defined as a fee paid incident to, and as a prerequisite to, the extension of credit.

The FTR explicitly grants exceptions to allow reimbursement for some financial charges, such as loan origination fees. *See* 41 CFR 302-11.200 (f)(2); *Willo D. Lockett*, GSBICA 16391-RELO, 04-2 BCA ¶ 32,722 (“A loan origination fee is intended to compensate the lender for administrative expenses incurred in originating and processing a loan.”); *Verna Pope*, GSBICA 15718-RELO, 02-1 BCA ¶ 31,822. By contrast, underwriting fees are not exempt under the FTR. We have consistently held that underwriting fees could not be reimbursed because they are “finance charges” that are “paid by the consumer and imposed by the creditor as incident to the extension of a mortgage loan (a form of credit.” *Matthew W. Forsyth*, CBCA 6447-RELO (Dec. 10, 2019).

Here, Mr. Steinberg’s HUD-1 Settlement Statement lists the underwriting fee in the amount of \$995 under Loan Origination Costs. To support his claim that the charge is actually for a loan origination fee rather than an underwriting fee, Mr. Steinberg submitted a letter from his lender, which explained that:

As a mortgage broker we have 15 lenders that we can use and every lender, including banks of all sizes, charge the underwriting fee. Some lenders call this an Admin or Administrative fee, but this is a true lender fee. The government requires this fee to be included in section A. Origination Charges of the Closing Disclosure, however, this fee is charged on every loan and is not used to buy down the rate. This fee is to cover administrative type expenses incurred in the processing and underwriting of the loan. If this fee was used to buy down the rate, it would have been included on the line A 01% of the Loan Amount (Points).

Mr. Steinberg argues that his underwriting fee is reimbursable because it served as a loan origination fee and that the \$995 underwriting fee listed on the closing disclosure under origination fees was the only origination fee he paid.

The question of whether an underwriting fee can substitute for a loan origination fee for the purposes of reimbursement has been addressed in *Daniel T. Mattson*, CBCA 654-RELO, 07-2 BCA ¶ 33,635, which held that an underwriting fee is considered to be part of the finance charge, and consequently is not reimbursable (citing cases). Thus, although Mr. Steinberg may believe that the underwriting fee in his case had a meaning different from how it is defined in the applicable regulations and precedent, he did not provide sufficient evidence to show that the agency's determination that the fee was an underwriting fee was unreasonable.

Decision

For the foregoing reasons, the claim is denied.

Jeri Kaylene Somers
JERI KAYLENE SOMERS
Board Judge