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## **What is a *Thing of Value*?**

The New Year is here ... OLD and NEW regulations are with us ... let's talk about a few:

What is a thing of value? Many of us sitting at our computers or cell phones right now could answer that in a moment. The rings on our hands; the bracelets on our wrists; our Oakley sunglasses .. right? These are things of value.

What is a thing of value when you are talking about gifts in EXCHANGE for referring settlement services?

RESPA (Real Estate Settlement Procedures Act) Section 8; prohibits giving or receiving a "Thing of Value" in exchange for the referral of settlement service business. RESPA includes in its prohibition all imaginable forms of compensation for a referral. In its broad definition of a "thing of value" it includes among other things services, discounts, commissions and even the opportunity to participate in a money-making program. As a result, real estate agents cannot receive gifts, prizes, fees or kickbacks (even if they are disclosed) for the referral of business to other settlement service providers such as escrow holders and title insurance companies

The Holidays are behind us but even a Holiday Gift could be included in the above definition. Yikes!

There is a notable exception to the Section 8 rule related to payments for marketing or advertising. Specifically, under Section 3500.14(g)(vii) of the Regulation X's interpretation of RESPA, settlement service providers, such as escrow holders, are permitted to engage in "normal, promotional and educational activities that are not conditioned on the referral of business and that do not involve the defraying of expenses that otherwise would be incurred by persons in a position to refer settlement services of business incident thereto"

We need to be aware of these items and start thinking how our regulators could perceive our actions when it comes to gift giving, gift receiving and even entertaining. Is there anything in connection with these items that could be viewed as giving something of value in exchange for services? Could it have the perception of a kick-back? Is printing your real estate brochures a thing of value? How about making a video of your new listing? There is a price for these items if we actually had someone design our flyers; print them and mail them out, right? How about hiring someone to video your new listing? If we are to comply with the law, we should not offer those services nor should you accept them!

Of course we all can give and receive "normal, promotional" items. Such as pens from Elite Escrow with our name on it! But we should not give or receive a Mont Blanc pen. That would not be acceptable.

We have a new regulator in the Consumer Financial Protection Bureau, CFPB, and we need to be aware that they are enforcing this rule as well as many others.

2015 is a year of change we have a New Closing Disclosures coming on August 1, 2015 which will replace the HUD-1 closing statement. We will no longer have a Good Faith Estimate, it will be a Loan disclosure. With those HUGE changes, don't get caught up in Section 8 RESPA Violations. It is not worth your livelihood!

At Elite we pride ourselves on giving the greatest gift of all! GREAT SERVICE! Open your next escrow with Elite Escrow Services of San Diego and experience the Elite Difference!

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