

Secret Commissions as Fraud:

Current Legal Climate: Recent UK Supreme Court August 2025 rulings have established that brokers must act in their clients' best interests and fully disclose the amount of commissions, as failing to do so constitutes a breach of fiduciary duty and will lead to significant liabilities.

- **Here is a breakdown of the legal principles involved:** If an agent receives a commission from a third party (e.g., your supplier) without the principal's informed consent, it is considered a "secret commission" or "secret profit." The law often treats this as a form of bribe.
- **Breach of Fiduciary Duty:** Agents (including brokers) owe a fiduciary duty to their principal (the client). This duty requires absolute loyalty, which includes disclosing all material facts.
- **Liability to Account for Profit:** If found by a court to have received an undisclosed commission, the agent is liable to **account for (repay) all profits** to the principal, regardless of whether the principal suffered an actual financial loss.
- **Repayment of Commissions:** Undisclosed commissions must be repaid. Furthermore, the principal may refuse to pay any contractual commission to the agent and may void the transaction.
- **"Half-Secret" vs. "Full Secret" Commissions:**
 - **Fully Secret:** No disclosure of any commission.
 - **Half-Secret:** The existence of a commission is disclosed, but the amount is not. Courts have ruled that simply stating "we might receive a commission" is often insufficient to obtain informed consent, especially if the client is a consumer or small business.