



U.S. DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT
OFFICE OF INSPECTOR GENERAL

March 26, 2014

MEMORANDUM NO:
2014-AT-1802

Memorandum

TO: Dane M. Narode
Associate General Counsel for Program Enforcement, CACC

//signed//

FROM: Nikita N. Irons
Regional Inspector General for Audit, 4AGA

SUBJECT: Final Civil Action:
Leo Thomas
Lender Official Settled Violations of Federal Housing Administration Lending Requirements

INTRODUCTION

The U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), assisted the Office of the United States Attorney, Civil Division, of the Eastern District of North Carolina with a review of loans allegedly improperly originated by Numerica Mortgage, LLC. Numerica was a Federal Housing Administration (FHA) direct endorsement mortgagee. The allegations originated with the office of the North Carolina Commissioner of Banks,¹ which referred the matter to OIG. The assigned assistant United States attorney (AUSA) filed a civil case using the False Claims Act and common law.

BACKGROUND

HUD's Federal Housing Administration (FHA) insures mortgages made by qualified lenders to people purchasing or refinancing a primary residence. FHA approves some lenders for direct endorsement authority. This allows the lender to underwrite and close loans without prior review by HUD. For each loan originated and endorsed under the program, the lender provides HUD with a written certification asserting that the lender followed HUD rules in originating and

¹ The North Carolina Office of the Commissioner of Banks is responsible for the chartering and regulation of North Carolina's State banks, trust companies, and mortgage companies, as well as registration and licensing of various financial entities operating in North Carolina.

endorsing the loan. Actions to the contrary can constitute false statements and false claims to the government.

The North Carolina Commissioner of Banks provided the OIG a referral alleging that Numerica Mortgage, LLC, had used its status as a direct endorsement lender to endorse loans with FHA insurance that were originated by lenders not approved to originate FHA mortgages. The referral alleged that lenders not approved to do FHA business would originate loans and send the loan packages to Numerica. They would then receive a fee from Numerica for the loan package, and Numerica officers or staff would sign off on the loan documents as if Numerica had originated the loan. The false documents were processed and submitted to HUD as part of endorsed FHA loans. Numerica's actions resulted in a "net branching" arrangement prohibited by HUD.²

On August 21, 2012, the AUSA filed a complaint in U.S. District Court for the Eastern District of North Carolina to recover statutory damages and civil penalties under the False Claims Act (31 USC (United States Code) 3729-3733) and common law. The complaint sought damages for mortgages wrongfully endorsed by Numerica that had insurance claims paid by HUD, as well as expected future insurance claims. Among other parties, the complaint named owner and company president Leo Thomas as a defendant.

RESULTS OF REVIEW

On September 24, 2013, the U.S. Attorney's office notified OIG that defendant Leo Thomas had executed a settlement agreement to resolve the complaint. The defendant denied all liability for the alleged wrongdoing and settled any civil liability in the matter solely to save the time and expense of defending the proposed civil actions. For cash payments totaling \$115,000 over 5 years, the settlement agreement resolved the Government's complaint.

RECOMMENDATION

We recommend that HUD's Office of General Counsel, Office of Program Enforcement,

- 1A. Agree to allow HUD OIG to record the \$115,000 settlement in HUD's Audit Resolution and Corrective Action Tracking System as ineligible costs.

² Mortgagee Letter 00-15: "...the practice of taking on an existing, separate mortgage company or broker as a branch and allowing that separate entity to originate insured mortgages under the approved mortgagee's HUD Mortgagee Number. Some mortgagees refer to this arrangement as a "net branch." This, however, constitutes a prohibited net branch arrangement."