



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

September 29, 2016

MEMORANDUM NO:
2016-CF-1812

Memorandum

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

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FROM: Christeen Thomas
Director, Joint Civil Fraud Division, GAW

SUBJECT: Final Civil Action: Real Estate Agent and Two Borrowers Settled Allegation of Making a False Certification to HUD Regarding a Home Purchase Under the Federal Housing Administration Program

INTRODUCTION

The U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), conducted a civil fraud review of an alleged loan origination fraud scheme involving borrowers purchasing a home in which the loan was insured under HUD's Federal Housing Administration (FHA) program. The alleged scheme involved the submission of a false loan application to obtain an FHA-insured loan on a home in San Diego, CA. The review was initiated as a result of a referral from HUD's Santa Ana Homeownership Center, Quality Assurance Division.

BACKGROUND

FHA provides mortgage insurance on loans made by FHA-approved lenders to creditworthy borrowers to purchase one- to four-unit properties. To ensure that FHA-insured mortgage loans are made to borrowers who intend to occupy the property for at least 1 year, FHA requires a certification signed by the borrower(s). A borrower expressly certifies to the intent to occupy the property when signing the uniform residential loan application. The borrower further certifies that the information provided in the loan application is true and correct and must provide certain documentation supporting that information as part of the overall loan application package.

RESULTS OF REVIEW

On February 11, 2016, the HUD Office of Hearings and Appeals filed a complaint against a real estate agent and two borrowers under the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. (United States Code) 3801-3812,¹ as implemented by 24 CFR (Code of Federal Regulations) Part 28. The complaint alleged that the three respondents knowingly caused (1) the submission of false, fictitious, or fraudulent statements, certifications, or documents to HUD in connection with an application for an FHA-insured mortgage loan and (2) the submission to FHA of a false, fictitious, or fraudulent claim for insurance benefits.

Specifically, the complaint alleged that a real estate agent had two borrowers falsely certify in the loan application that they intended to reside in the San Diego, CA, property as their primary residence. However, they did not live in the property or intend to do so. Instead, the borrowers deeded the property to the real estate agent, who had intended to run a group home out of the property. The group home business did not materialize, and the property went into foreclosure. The complaint further alleged that materially false statements made by the two borrowers, at the request of the real estate agent, caused the mortgage holder of the FHA-insured mortgage loan to submit a false claim to FHA for \$344,925 in insurance benefits.

All three respondents have entered into settlement agreements with HUD. HUD and the respondents wished to seek a satisfactory resolution of their dispute without the expense and uncertainty of further litigation. The agreements do not constitute an admission of liability, fault, or wrongdoing by the three respondents or by HUD.

On July 7, 2016, the real estate agent entered into a settlement agreement to pay \$5,000, with \$1,000 paid at the signing of the agreement and the remaining \$4,000 due by September 15, 2016. On July 15, 2016, the first borrower entered into a settlement agreement to pay \$5,000, with \$2,500 paid at the signing of the agreement and the remaining \$2,500 due by October 15, 2016. On July 29, 2016, the second borrower entered into a settlement agreement to pay \$1,000, with \$500 paid at the signing of the agreement and the balance due by October 15, 2016.

RECOMMENDATION

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

- 1A. Acknowledge that the attached settlement agreement for \$5,000 represents an amount due HUD from the real estate agent.

As of the date of this memorandum, the settlement agreement of \$5,000 had been reached and it represents an amount due HUD. Included in the settlement agreement is a repayment agreement that explains an initial payment of \$1,000. The real estate agent made another payment of \$500, with the balance of \$3,500 expected by September 15, 2016. In accordance with HUD Handbook 2000.06, REV-4, the final action target date will be set at October 15, 2016 (30 days from the final date on which payment is

¹ The Program Fraud Civil Remedies Act establishes remedies for false statements and false claims valued at \$150,000 or less that are submitted to the Federal Government or intermediaries of the Government.

expected). At issuance of this memorandum, HUD OIG will enter a management decision into HUD's Audit Resolution and Corrective Action Tracking System, along with any supporting payment information received to date.

- 1B. Acknowledge that the attached settlement agreement for \$5,000 represents an amount due HUD from the first borrower.

As of the date of this memorandum, the settlement amount due HUD had been paid in full. Therefore, no further action is required by the Office of General Counsel. At issuance of this memorandum, HUD OIG will enter a management decision into HUD's Audit Resolution and Corrective Action Tracking System, along with any supporting payment information to show that final action was completed.

- 1C. Acknowledge that the attached settlement agreement for \$1,000 represents an amount due HUD from the second borrower.

As of the date of this memorandum, the settlement agreement of \$1,000 had been reached with the second borrower, and it represents an amount due HUD. Included in the settlement agreement is a repayment agreement that explains an initial payment of \$500, with the balance of \$500 expected by October 15, 2016. In accordance with HUD Handbook 2000.06, REV-4, the final action target date will be set at November 14, 2016 (30 days from the final date on which payment is expected). At the issuance of this memorandum, HUD OIG will enter a management decision into HUD's Audit Resolution and Corrective Action Tracking System, along with any supporting payment information received to date.