



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

July 11, 2013

MEMORANDUM NO:
2013-CF-1802

Memorandum

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

Kimberly Randall

FROM: Kimberly Randall
Director, Joint Civil Fraud Division, GAW

SUBJECT: Final Civil Action: Judgment of Civil Money Penalty Imposed on Realtor for Preforeclosure Scheme

INTRODUCTION

The U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), investigated an alleged preforeclosure scheme involving 31 properties financed with Federal Housing Administration (FHA)-insured loans. OIG assisted the U.S. Attorney's Office of the Central District of California, which brought the civil case under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).¹

BACKGROUND

On August 1, 2011, the U.S. Attorney's Office filed a complaint in U.S. district court seeking civil money penalties against Mario Menendez. The complaint alleged that between January 1, 2001, and December 31, 2003, Menendez executed a scheme to defraud HUD and lenders on 31 FHA-insured mortgages. Menendez, a realtor, certified to the lender as part of HUD's preforeclosure program regulations,² that there were no hidden terms or special understandings

¹ Under FIRREA, 12 U.S.C. (United States Code) 1833a, the Federal Government may recover civil penalties against persons who violate or conspire to violate specific provisions of criminal statutes involving financial fraud.

² HUD's preforeclosure program allows FHA borrowers who are behind on their mortgage payments to sell their properties to avoid foreclosure. When the sales price is less than the outstanding debt, these transactions are commonly referred to as "short sales." The real estate agent assisting the borrower under this program certifies to the preforeclosure lender that there are no hidden terms or special understandings with the buyer or seller.

concerning the transactions. However, Menendez had allegedly prearranged the sale of the properties before the preforeclosure transactions had occurred and had not disclosed the prearranged sales and respective agreed-to sales prices to the lender. Further, in 27 of the 31 transactions, Menendez purchased the preforeclosure properties through his various real estate companies at the sales prices that he helped set and negotiate with the lenders. Menendez then resold them on the same day for a substantial gain.

RESULTS

The alleged scheme caused the preforeclosure lenders to submit claims to HUD for the 31 FHA loans, which HUD paid but which were not reduced by Menendez's alleged fraudulent gains. On March 6, 2013, the U.S. District Court of the Central District of California ordered Menendez to pay a civil penalty in the amount of \$40,000, based on the stipulations of FIRREA.

RECOMMENDATION

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

- 1A. Agree to allow HUD OIG to record the \$40,000 court-ordered civil penalty of \$40,000 in HUD's Audit Resolution and Corrective Actions Tracking System as funds put to better use.