



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

September 25, 2014

**MEMORANDUM NO:**  
2014-CF-1809

*Memorandum*

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

*//signed//*

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

SUBJECT: Final Civil Action: Judgment Imposed on Loan Officer Regarding  
Allegations of Making a False Certification to HUD for a Home Purchase  
Under the Federal Housing Administration Program

**INTRODUCTION**

The Office of Inspector General (OIG) conducted a civil fraud review of an alleged loan origination fraud scheme involving a loan officer that assisted a borrower to purchase a home under the U.S. Department of Housing and Urban Development (HUD), Federal Housing Administration (FHA) program. The alleged scheme involved submitting a false loan application and other documentation to obtain an FHA-insured loan on a home in Brentwood, 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) and loan officer.

A borrower expressly certifies their intent to occupy the property when signing the uniform residential loan application as well as an addendum to the loan application. The borrower further certifies that the information in the loan application is true and correct and must provide certain documentation supporting that information as part of the overall loan application package. The

loan officer, an officer of the lender, certifies that the information in the loan application and the addendum was obtained directly from the borrower by an employee of the lender, or its duly authorized agent, and is true to the best of the lender's knowledge and belief.

### **RESULTS OF REVIEW**

Based in part on OIG's review, on December 20, 2013, HUD filed a complaint against the loan officer under the Program Fraud Civil Remedies Act of 1986 (PFCRA), 31 U.S.C. (United States Code) 3801-3812,<sup>1</sup> as implemented by 24 CFR (Code of Federal Regulations) Part 28. The complaint alleged that the loan officer 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.

More specifically, the complaint alleged that the loan officer helped the borrower complete the loan application, gather supporting documents, including the borrower's income tax return, and caused these false documents to be submitted to HUD. The complaint also alleged that the loan officer was aware that the information submitted by the borrower was false because she was the borrower's ex-wife and she knew he purchased the property so she could live there with their two sons. In addition, the loan officer certified to the truthfulness of the information in the loan application and addendum, including the borrower's certification that he intended to occupy the property as his primary residence even though the loan officer knew, or had reason to know, that the borrower did not intend to live in the home. The complaint further alleged that the submission of false, fictitious, or fraudulent certifications and supporting tax documentation caused the mortgage holder of the FHA-insured mortgage loan to submit a false, fictitious, or fraudulent claim to FHA for \$749,381 in insurance benefits.

On August 5, 2014, HUD's Office of Hearings and Appeals granted a default motion and entered a judgment against the loan officer and in favor of the Government. The motion makes the loan officer liable to HUD for civil penalties of \$7,500 and an assessment of \$300,000, less \$57,500 to be paid by the borrower according to his related settlement agreement with HUD. The total judgment against the loan officer is \$250,000. Further, the default constitutes an admission of all facts alleged in the Government's complaint and a waiver of the loan officer's right to a hearing on such allegations.

### **RECOMMENDATION**

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

- 1A. Allow HUD OIG to record the \$250,000 judgment in HUD's Audit Resolution and Corrective Actions Tracking System as an ineligible cost.

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<sup>1</sup> PFCRA establishes administrative procedures for Federal agencies to impose remedies against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to Federal authorities or to their agents. HUD's Office of Hearings and Appeals hears and makes determinations regarding PFCRA cases brought before it. Such hearing procedures are governed by HUD regulations, and are guided by the rules applicable to trials in Federal court.

HUD's Office of General Counsel, Office Program Enforcement, agreed to the recommendation, and further agreed to monitor any recovery received from the Department of Justice's enforcement of the judgment.