



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

September 18, 2017

MEMORANDUM NO:
2017-CF-1805

Memorandum

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

//signed//

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

SUBJECT: Final Civil Action: First American Mortgage Trust Settled Allegations of Failing To Comply With HUD's Federal Housing Administration Loan Requirements

INTRODUCTION

The U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), assisted the U.S. Attorney's Office for the District of Massachusetts in the civil investigation of First American Mortgage Trust. First American has its principal place of business in Brighton, MA, and does business as NXTLoan.Com Corp., a Delaware corporation. First American is the parent company of NXTL.

BACKGROUND

The Federal Housing Administration (FHA) program is a component of HUD. The program provides mortgage insurance for a person to purchase or refinance a principal residence. The mortgage loan is funded by a lending institution, such as a mortgage company or bank, and the mortgage is insured by FHA.

HUD's direct endorsement program authorizes private-sector mortgage lenders to approve mortgage loans for FHA insurance. Lenders approved for the program must follow various FHA requirements, including providing annual and per loan certifications that the lender complied with these requirements when underwriting and approving loans for FHA insurance.

First American became an FHA-approved direct endorsement lender in December 1997. As a direct endorsement lender, First American was authorized by HUD to originate and underwrite

mortgage loans on HUD's behalf, including determining a borrower's creditworthiness and whether the proposed loan met all applicable requirements. When a borrower defaults on an FHA-insured loan underwritten and endorsed by a direct endorsement lender, such as First American, the lender (or its representative) has the option of submitting a claim to HUD to compensate the lender for any loss sustained as a result of the default. Therefore, once a mortgage loan is endorsed for FHA insurance, HUD insures the risk of the borrower's defaulting on that mortgage, which is realized if an insurance claim is submitted.

RESULTS OF INVESTIGATION

On October 18, 2016, First American entered into a settlement agreement with the Federal Government to pay \$1.025 million. First American settled allegations that it failed to comply with FHA requirements for the origination of single-family mortgage loans. Specifically, it did not conduct the quality control audits required by HUD on certain closed and early payment default loans, and it made or caused the submission of false claims for insurance proceeds concerning mortgage loans insured by FHA between 2005 and 2011 that did not qualify for FHA insurance.

The settlement will be comprised of cash payments and claim waivers. This amount includes \$250,000 in cash and First American agreeing not to submit claims on up to seven certain FHA-insured loans in exchange for a credit.

RECOMMENDATION

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

- 1A. Acknowledge that \$250,000 of the \$1,025,000 in the attached settlement represents an amount due HUD, less the U.S. Department of Justice's (DOJ) civil debt collection fees.¹

As of the date of this memorandum, the settlement amount of \$1,025,000 had been resolved. 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 the supporting payment information to show that final action was completed.

¹ DOJ's 1994 Appropriation Act (P.L. 103-121) authorized DOJ to retain up to 3 percent of all amounts collected as the result of its civil debt collection litigation activities.