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MEMORANDUM NO.
2010-CF-1801

September 30, 2010

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

FROM: Kim Randall, Director, Civil Fraud Division, GA

SUBJECT: Final Civil Action
Anchor Mortgage Corporation, Chicago, IL
Loan Origination Fraud – Violations of the False Claims Act

INTRODUCTION

Following completion of the criminal case against employees of Anchor Mortgage Corporation (Anchor), we reviewed the alleged fraudulent loan origination practices of Anchor to pursue a civil fraud case. We initiated our review because during the criminal investigation, we found that for some of the loans, Anchor had violated the Federal Housing Administration's (FHA) loan origination policies and procedures.[1] Our review was to identify violations of FHA requirements and the related amount of losses incurred by the U.S. Department of Housing and Urban Development (HUD).

METHODOLOGY AND SCOPE

[1] The lender certifies on HUD Form 92900-A, HUD/VA Addendum to Uniform Residential Loan Application that the statements made in its application for insurance are true and correct. The lender also certifies that it has not paid any kickbacks, fees, or consideration of any type, directly or indirectly, to any party in connection with this transaction except as permitted under HUD regulations and administrative instructions.

HUD Handbook 4155.1 REV-5, section 3, paragraph 2-10C states that regardless of when the gift funds are made available to the homebuyer, the lender must be able to determine that the gift funds ultimately were not provided from an unacceptable source and were indeed the donor's own funds.

We reviewed 16 loans identified during the criminal investigation in which Anchor violated FHA's loan origination requirements. Anchor originated these loans in 1998 and 1999. HUD had paid claims and incurred total losses of more than $1.6 million. We reviewed FHA case binders, FHA requirements for loan origination procedures, and HUD's Single Family Acquired Asset Management System.

BACKGROUND

Anchor Mortgage was a nonsupervised direct endorsement lender based in Chicago, IL. FHA approved Anchor as a direct endorser in April 1993 and terminated its approval in August 2006. John Munson was Anchor's owner.

RESULTS

On January 30, 2006, based on the results of our review, the Office of the United States Attorney, Civil Division, sued Anchor and John Munson under the False Claims Act (Act).[2] The suit alleged that Anchor violated the Act by knowingly providing false information to HUD for mortgage loans to be insured by FHA. The suit also alleged that Anchor and John Munson violated the Act by paying fees to an unrelated real estate company for referring borrowers to Anchor and falsely certifying in applications for FHA-insured loans that no such fees had been paid.

On August 11, 2010, in the United States District Court, Northern District of Illinois, Judge Matthew Kennelly entered a judgment in favor of the United States (plaintiff).[3] The court found that Anchor provided false information or violated HUD regulations for 11 loans.[4] For eight loans, Anchor knowingly provided false gift affidavits in connection with applications it submitted to obtain FHA-insured loans for its customers. These false statements were material to HUD's decision to grant FHA insurance.

The court also found that for three loans, Anchor paid fees to a real estate company for referring borrowers, although it certified that it had paid no kickbacks, fees, or consideration of any type to anyone in connection with the transaction except as permitted by HUD rules.

Anchor was found liable for damages for all 11 loans, and John Munson was found liable for 3 loans for which referral fees were paid. The court awarded damages and penalties of more than $2.7 million[5] against Anchor and $226,424 against John Munson.
If you have any questions, please contact me at 913-551-5429.

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[2] The False Claims Act is a civil enforcement tool that allows the Federal government to recover funds fraudulently obtained from Federal programs and impose financial penalties against offenders, and serves as a strong deterrent to other would-be offenders.
[3] *United States of America vs. Anchor Mortgage Corp. and John Munson*, Case No. C 06 C 210, in the United States District Court for the Northern District of Illinois, Eastern Division, issued August 11, 2010.
[4] FHA loans: 131-9763659, 131-8703983, 131-9178982, 131-9572817, 131-9192801, 131-9466261, 131-9206062, 131-7993462, 131-9319697, 131-9279746, 131-9669831
[5] United *States of America vs. Anchor Mortgage Corp. and John Munson*, Case No. C 06 C 210, stated that three times the total loss of $1,082,412.15 on 11 loans equals $3,247,237.35 less $541,220 (recovery by selling properties) equals $2,706,017.35. Adding $60,500 in civil penalties (11 claims x $5,500) amounts to $2,766,517.35.

RECOMMENDATIONS

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

1A. Collect $2,766,517 in damages and penalties awarded against Anchor Mortgage for violating the False Claims Act.

1B. Collect $226,424 in damages and penalties awarded against John Munson for violating the False Claims Act.