



U.S. Department of Housing and Urban Development
Office of Inspector General
Office of Audit - Civil Fraud Division
451 7th Street, SW
Washington, DC 20410

MEMORANDUM NO.
2012-CF-1807

June 5, 2012

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



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

SUBJECT: Final Civil Action - Alleged Violations of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989

Jesus Aguirre

INTRODUCTION

The U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), conducted a civil fraud review to determine whether Indymac Bank followed Federal Housing Administration (FHA) policies and procedures when it originated FHA-insured loans. Indymac had previously been a high-volume originator of FHA loans but was seized by the Federal Deposit Insurance Corporation (FDIC) in July 2008 and later filed for bankruptcy.

We focused on loans that were secured by California properties and in claim or default status as of February 12, 2009. Within this group, we identified a set of questionable loans originated by Indymac that had been generated by Beechwood Incorporated. Beechwood is a company located in Moreno Valley, CA, that conducts various real estate services.

Based on our review of the Beechwood loans, the U.S. Attorney's Office of the Central District of California, Western Division, filed a civil complaint against Jesus Aguirre, three other

individuals, and Beechwood. The U.S. Attorney's Office filed the complaint under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. (United States Code) 1833a, alleging that the individuals and Beechwood made false statements in support of a loan application and devised a scheme to defraud a financial institution.

METHODOLOGY AND SCOPE

Using HUD databases, we identified 4,360 FHA-insured loans that Indymac originated from June 1985 through October 2008. As of February 12, 2009, the databases showed that 86 of the loans for California properties were in claim or default status. We reviewed the 86 FHA loans through either the HUD loan binders or HUD databases and performed the following steps:

- Identified Indymac's loan originations through HUD's Single Family Data Warehouse,
- Analyzed pertinent information from the FHA loan binders,
- Obtained income information from California's Employment Development Department,
- Interviewed pertinent individuals, and
- Reviewed HUD's Single Family Asset Management System for HUD loss information.

BACKGROUND

Indymac was headquartered in Pasadena, CA, and at one time had 191 active branches. It was an unconditional direct endorsement lender for FHA loans from July 2001 until FDIC seized it on July 11, 2008. We began to review Indymac's loan origination practices soon thereafter.

As part of its loan origination business, Indymac had entered into an agreement with Beechwood (also d.b.a. Beechwood Realty and Beechwood Services) to become the company's exclusive in-house lender for its real estate business. In 2008 and 2009, Beechwood real estate salespersons, Beechwood Services (escrow and notary services), and Indymac loan officers operated within the same building as a "one stop shop." The arrangement allowed Indymac and Beechwood to provide loan services, real estate agent services, and escrow and notary services to their clients.

RESULTS

On June 15, 2010, the Civil Division of the U.S. Attorney's Office filed a complaint under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, based on the results of our civil fraud review. In its complaint, the U.S. Attorney's Office alleged that defendants Jesus Aguirre, three other individuals, and Beechwood conspired to orchestrate a scheme to qualify their otherwise unqualified real estate and loan clients for new home loans. Each client wanted to purchase a new home but owned other property that he or she could neither sell nor afford to keep, and, thus, the client could not qualify for a new FHA loan from Indymac. To qualify their clients for the new FHA loans, the defendants allegedly caused false rental income documents and false rental agreements to be placed into their clients' home loan applications to influence Indymac's decisions as to whether to approve the borrowers' applications for FHA-insured home loans and fund these loans. The complaint alleged wrongdoing involving three Indymac FHA-insured loans and demanded civil penalties against Beechwood and the four individuals.

On October 4, 2011, Jesus Aguirre entered into a \$50,000 settlement agreement with the U.S. Department of Justice (DOJ). Aguirre agreed to complete community service in lieu of paying the settlement. If Aguirre does not fully carry out his obligation under the settlement agreement, DOJ will file a \$50,000 judgment with the court. The parties agreed that the settlement agreement was not an admission of liability or fault on the part of either party and was entered into for the purpose of compromising on disputed claims arising under or related to the complaint and to avoid the expenses and risks of litigation.

RECOMMENDATION

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

- 1A. Agree to allow HUD OIG to record the \$50,000 settlement in HUD's Audit Resolution and Corrective Actions Tracking System as "funds to be put to better use." This recommendation is based on the subject's agreeing to perform community service in lieu of paying the monetary settlement and the subject's being required to pay the settlement if he fails to complete the community service.