



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

August 21, 2017

MEMORANDUM NO:
2017-CF-1804

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: Financial Freedom, a Division of CIT Bank, N.A., Settled Allegations of Failing To Comply With HUD's Federal Housing Administration Servicing Requirements for HECM Claims

INTRODUCTION

The U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), assisted the U.S. Department of Justice (DOJ), Washington, DC, and the U.S. Attorney's Office for the Middle District of Florida in a civil investigation of Financial Freedom Acquisition, a division of CIT Bank, N.A. Financial Freedom was originally owned by IndyMac Bank until its failure in 2008, when the Federal Deposit Insurance Corporation was appointed as conservator. On March 18, 2009, OneWest Bank, N.A., based in Pasadena, CA, acquired the assets of Financial Freedom. On August 3, 2015, CIT Group acquired OneWest Bank, including Financial Freedom. The home equity conversion mortgage (HECM) servicing operations for Financial Freedom were located in Austin, TX.

BACKGROUND

The Housing and Community Development Act of 1987 (Public Law 100-242, February 5, 1988) established a Federal mortgage insurance program, Section 255 of the National Housing Act, to insure HECMs (also known as reverse mortgages). The program is administered by HUD. The HECM program is a mortgage insurance program that allows borrowers, who are at least 62 years of age, to convert the equity in their homes into a monthly stream of income. Reverse mortgages can provide a valuable financing alternative for qualified homeowners. Any lender authorized to make HUD-insured loans may originate reverse mortgages.

Under a HECM loan, the borrower may occupy the property until the mortgage becomes due and payable. A mortgage will become due and payable when the borrower dies, the property is no longer the borrower's principal residence, the borrower does not occupy the property for 12 consecutive months for health reasons, or the borrower violates the mortgage covenants. When the mortgage becomes due and payable, the property will normally be sold by the borrower or the borrower's estate to pay off the outstanding balance on the mortgage. Since a HECM is a nonrecourse loan, the lender's recovery from the borrower will be limited to the value of the home. There will be no deficiency judgment taken against the borrower or the estate because there is no personal liability for payment of the loan balance. When the proceeds from the sale of the property are insufficient to pay off the outstanding balance, the lender will file a claim for the difference between the proceeds from the sale of the property and the outstanding balance, up to the maximum claim amount.

RESULTS OF INVESTIGATION

On May 16, 2017, Financial Freedom entered into a settlement agreement with the Federal Government to pay \$68,274,944 to avoid the delay, uncertainty, inconvenience, and expense of lengthy litigation. Financial Freedom also had paid HUD more than \$21,000,000 related to the covered conduct through HUD's Supplemental Claims system, for a total settlement value of \$89,274,944. The Federal Government alleged that Financial Freedom sought to obtain insurance payments for debenture interest from HUD and did not disclose on the insurance claim forms that the lender was not eligible for such interest payments. The settlement was neither an admission of liability by Financial Freedom nor a concession by the United States that its claims were not well founded.

As a result of Financial Freedom's conduct, lenders on relevant HECMs obtained additional debenture interest that they were not entitled to receive. HUD incurred substantial losses when it paid additional debenture interest on HECM claims on the loans covered by the settlement agreement. Of the total \$89,274,944 settlement, the Federal Housing Administration received \$41 million, and the remaining amount was paid to other Federal entities.

RECOMMENDATION

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

- 1A. Acknowledge that \$41 million of the \$89,274,944 in the attached settlement represents an amount due HUD, less DOJ's civil debt collection fees.¹

As of the date of this memorandum, the settlement amount due HUD had been paid in full. 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 and Corrective Action Tracking System, along with the supporting payment information, to show that final action has been completed.

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