

UNITED STATES OF AMERICA  
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of:

MISSION MORTGAGE CORPORATION,  
  
Respondent.

HUDALJ – 08-018-MR  
HUDOGC Case No. 08-005-CSF  
Decided: January 24, 2008

Ted Tazaz, President  
For the Respondent

Ana Fabregas, Esq.  
For the Government

Before: Constance T. O'Bryant  
Administrative Law Judge

**DEFAULT DECISION AND ORDER**

On January 9, 2008, the Secretary of the United States Department of Housing and Urban Development (“the Secretary” or “HUD”) filed a Complaint and a Motion for Default Judgment seeking civil money penalties of \$12,000 against Mission Mortgage Corporation (“Respondent”) pursuant to Section 536 of the National Housing Act, (12 U.S.C. §1735f-14) and 24 C.F.R. Part 30. Jurisdiction over this matter is conferred upon the Office of Administrative Law Judges pursuant to Section 202(c)(1) of the National Housing Act, as amended. 12 U.S.C. § 1735f-14 and 24 C.F.R. Part 30, Subpart C.

Respondent has not responded to the Complaint or to the Motion for Default Judgment. The Motion will be *GRANTED*.

**Procedural Background**

In a letter dated May 4, 2007 (“Notice”), the Mortgage Review Board (“the Board”) notified Respondent, pursuant to 24 CFR Parts 25 and 30, that it was considering an administrative action and the imposition of civil money penalties against Respondent, based upon its acts and omissions as a HUD/FHA approved lender. The Notice averred, in relevant part, that Respondent had failed to maintain and implement a Quality Control

Panel in accordance with HUD/FHA requirements. The Notice informed Respondent of its opportunity to respond to the findings set forth in the Notice.

The Board determined to seek a civil money penalty against Respondent. In determining the amount of the civil money penalties to be sought, the Board considered the factors described in 12 U.S.C. §1735f-14(c)(3) and 24 C.F.R. §30.80, which included: (a) the gravity of Respondent's offenses; (b) Respondent's history of prior offenses; (c) Respondent's ability to pay the penalty; (d) any injury to the public; (e) the benefits received by Respondent; (f) the extent of potential benefit to other persons; (g) the deterrence of future violations; (h) the degree of Respondent's culpability; and (k) such other matters as justice may require.

On December 6, 2007, HUD served on Respondent this Complaint seeking civil money penalties of \$12,000. The Complaint notified Respondent of its right to request a hearing to contest the imposition of the civil money penalty sought in the Complaint by filing an Answer within 15 days of receipt of the Complaint, and that failure to file an Answer within 15 days could result in the filing of a Motion for Default Judgment by HUD. *See* 24 C.F.R. §§26.39 and 30.90(b). If granted, a default would constitute an admission of all facts alleged in the Complaint and a waiver of Respondent's right to a hearing in the matter, 24 C.F.R. § 26.39(c), and would constitute final agency action in the case. Respondent received the Complaint on December 7, 2007, but failed to file an Answer within 15 days of receipt of the Complaint.

The Complaint charges that Respondent violated requirements of HUD's Federal Housing Administration ("FHA"), while it was an FHA-approved mortgagee. Pursuant to 12 U.S.C. § 1707, only mortgagees approved by HUD may participate in the mortgage insurance program under Title II of the National Housing Act. As part of the approval process, mortgagees submit to HUD an application for approval, wherein the mortgagee agrees that it will comply with HUD regulations and other requirements. Complaint ¶ 24. On or about June 14, 1993, Respondent submitted to HUD an application for approval. In its application for approval, Respondent agreed that it would comply with HUD regulations and other requirements. Respondent was approved by HUD as a Loan Correspondent mortgagee on or about September 17, 1993. Respondent's Fiscal Year begins on January 1, and ends on December 31. Complaint ¶¶ 29-32.

HUD has set forth general standards that mortgagees must meet in order to obtain and maintain HUD's approval. 24 C.F.R. § 202.5. Among the general standards of approval is the requirement that mortgagees must implement a written quality control plan that is acceptable to HUD. 24 C.F.R. § 202.5(h). *See also* HUD Handbook 4000.4 REV-

1,CHG-2, Section 2-6; HUD Handbook 4060.1REV-1,Section 2-22; and HUD Handbook 4060.1REV-1, CHG-1, Section 2-22. Moreover, HUD has set forth the requirements that a quality control plan must meet in order to be acceptable. See HUD Handbooks 4000.4 REV-1, CHG-2, Section 2-6; 4060.1 REV-1, Chapter 6 (in effect through November 24, 2003); and 4060.1 REV-1, CHG-1, Chapter 6 (in effect from November 24, 2003 to August 14, 2006.)

HUD's Complaint charges that Respondent failed to maintain and implement a written Quality Control Plan for Fiscal Years 2003 and 2004. In particular, the Complaint makes the following charges:

1. That in Fiscal Year 2003, Respondent failed to have a written Quality Control Plan;
2. That in Fiscal Year 2004, Respondent failed to analyze one defaulted FHA-insured loan in accordance with the requirements set forth at HUD Handbook 4060.1 REV-1.Section 6-1.D.3.
3. That during part of Fiscal Year 2004 Respondent failed to have a written Quality Control Plan.
4. That on or about July 16, 2004, Respondent adopted a Quality Control Plan that failed to meet all of the requirements set forth by the Secretary;
5. That during Fiscal Year 2004, Respondent failed to analyze six defaulted FHA-insured loans in accordance with the Quality Control requirements set forth at HUD Handbook 4060.1 REV-1.Section 6-1.D.3.
6. That by failing to maintain and implement a Quality Control Plan in accordance with the requirements of the Secretary, Respondent knowingly and materially violated an agreement, certification, or condition of approval set forth on, or applicable to, the application of a mortgagee or lender for approval by the Secretary; and
7. That by failing to maintain and implement a Quality Control Plan in accordance with the requirements of the Secretary, Respondent knowingly and materially violated provisions of Title II of the National Housing Act, as amended, and implementing regulations and Handbooks issued pursuant thereto.

Complaint ¶¶ 29 – 32. Respondent’s default constitutes an admission of the facts alleged in the Complaint and a waiver of respondent’s right to a hearing on such allegations. 24 C.F.R. § 26.39(c).

### **Findings of Fact**

1. Respondent is a corporation doing business in Miramar, Florida. On September 17, 1973, FHA approved Respondent as a loan correspondent mortgagee. Respondent is engaged in the business of originating FHA-insured mortgages. (Complaint ¶ 5)

2. Respondent knowingly and materially failed during the Fiscal Years 2003 and 2004 to implement and maintain a written Quality Control Plan in conformance with HUD/FHA requirements. (Complaint ¶¶ 34-36 and 37-40)

3. Respondent knowingly and materially violated an agreement, certification, or condition of approval set forth on, or applicable to, the application of a mortgagee or lender for approval by the Secretary, (Complaint ¶¶ 34-42) and

4. Respondent knowingly and materially violated provisions of Title II of the National Housing Act, as amended, (12 U.S.C. § 1707 et seq.) and implementing regulations and Handbooks issued pursuant thereto. (Complaint ¶¶ 34-42)

### **Conclusions**

By reason of the above findings of fact, Respondent has committed knowing and material violations of 12 U.S.C. § 1735-14 and HUD Handbook 4000.2 REV-2, ¶ 3-6 and ¶ 5-3, HUD Handbook 4060.1 REV-1, Section 6-1D.3, and HUD Handbook 4060.1 REV-1 CHG-1, Chapter 6, for which civil penalties may be imposed. (Complaint ¶¶ 1-43)

### **ORDER**

Pursuant to 24 C.F.R. §§ 25.12, 26.37, 26.39, 30.35, and 30.90, it is hereby ORDERED that:

1. The Government’s Motion for Default Judgment is granted;
2. Respondent shall pay to the Secretary of HUD a civil money penalty of \$12,000, which penalty is due and payable immediately without further proceedings; and

3. This Order shall constitute the final agency action.

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CONSTANCE T. O'BRYANT  
Administrative Law Judge

Dated: January 24, 2008

**CERTIFICATE OF SERVICE**

I hereby certify that copies of this **DEFAULT DECISION AND ORDER**, issued by CONSTANCE T. O'BRYANT, Administrative Law Judge, HUDALJ 08- 018 -MR, were sent to the following parties on this 24<sup>th</sup> day of January, 2008, by facsimile and in the manner indicated:

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Chief Docket Clerk

**REGULAR MAIL:**

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