

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

In the Matter of:

MORELAND FINANCIAL
CORPORATION,

Respondent.

HUDALJ 04-47-MR
HUDOGC Case No. 04-4433-MR
Decided: August 16, 2005

Supriya Molina, Esq.
For the Government

Neil Andrew Stein, Esq.
For the Respondent

Before: Thomas C. Heinz
Administrative Law Judge

DEFAULT DECISION AND ORDER

On May 23, 2005, the Secretary of the United States Department of Housing and Urban Development ("the Secretary" or "HUD") issued a Complaint seeking civil money penalties of \$22,000 against Moreland Financial Corporation ("Respondent") pursuant to Section 536 of the National Housing Act, (12 U.S.C. §1735f-14) and 24 C.F.R. Part 30. The Complaint alleges that Respondent violated requirements of HUD's Federal Housing Administration ("FHA") while it was an FHA-approved mortgagee. The Complaint notified Respondent of its right to appeal the imposition of the civil money penalty by filing an Answer within 15 days of receipt of the Complaint, and that failure to file an Answer timely could result in a default judgment and imposition of the penalty sought. *See* 24 C.F.R. §§26.39 and 30.90(b). Respondent received the Complaint on May 24, 2005, but failed to file an Answer within 15 days of receipt of the Complaint.

On July 5, 2005, HUD issued a Motion for Default Judgment against Respondent. Respondent filed a response to the Motion and an Answer to the Complaint on July 11, 2005. In that Response, Respondent argues that it had not been served with the Complaint. However, the record shows that Respondent indeed received the Complaint on May 24, 2005. (Exhibit A, Motion for Default Judgment) The Complaint clearly

explains that if Respondent wished to contest the imposition of civil money penalties, it "must file a written response to this Complaint within fifteen days from its receipt; this response shall be considered a request for a hearing." (Complaint, p. 12).

Respondent further argues that it had 30 rather than 15 days in which to respond to the Complaint, citing 24 C.F.R. § 30.70. That argument misses the mark. Section 30.90, not section 30.70, of 24 C.F.R. governs procedures regarding the proper response to a Complaint. Section 30.70 of 24 C.F.R. applies to the prepenalty notice that HUD sent to Respondent on May 10, 2004, more than a year ago. (*See* Complaint, ¶ 6.)

In sum, Respondent's justifications for its failure to file a timely response to the Complaint are incorrect on both the law and the facts. Accordingly, inasmuch as the record reveals no legitimate reason to deny the Government's motion for default, the motion will be granted.

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 located in Fort Washington, Pennsylvania. On July 26, 1994, FHA approved Respondent as a non-supervised loan correspondent mortgagee. Respondent is engaged in the business of originating FHA-insured mortgages. (Complaint, ¶ 3)

2. Respondent knowingly and materially failed during the years 2002 and 2003 to implement and maintain a Quality Control Plan in conformance with HUD/FHA requirements. (Complaint, ¶¶ 22-38)

3. Respondent knowingly and materially failed to pay all of its own operating expenses in connection with 11 loans by allowing one of its loan officers to personally pay the salaries of the loan processors involved in each of the loans. (Complaint, ¶¶ 39-43)

4. Respondent knowingly and materially charged five borrowers more than the actual cost of credit reports prepared for their loans. (Complaint, ¶¶ 44-54)

5. Respondent knowingly and materially failed in connection with one loan to check the authenticity of a verification of rent form faxed from an unidentified source. (Complaint, ¶¶ 55-60)


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, Chapter 6, and ¶ 2-17, HUD Handbook 4155.1 REV-4, CHG 1, ¶ 3-1, Mortgagee Letter 00-15, and Mortgagee Letter 01-01, for which civil penalties may be imposed. (Complaint, ¶¶ 1-60)

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 \$22,000, which penalty is due and payable immediately without further proceedings; and
3. This Order shall constitute the final agency action.



THOMAS C. HEINZ
Administrative Law Judge

Dated: August 16, 2005