

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

U. S. DEPT. OF HOUSING AND
URBAN DEVELOPMENT,
Plaintiff,

vs.

JEFF BIRSCHBACH and AMERICAN
UNION MORTGAGE

and

AMERICAN UNION MORTGAGE
Respondents.

HUDALJ No. 06-015-PF
OGC Case No. 06-3321-PF

ORDER

On June 28, 2006, the undersigned issued an Order dismissing the above-stated Complaints at the request of the parties who had entered Settlement Agreements disposing of the issues in the case. The Complaints had sought penalties against Respondents under the Program Fraud Civil Remedies Act of 1986, 31 U. S.C. §§ 3801-3812 (HUDALJ No. 06-015-PF) and civil money penalties pursuant to 12 U.S.C. § 1735f-14 (HUDALJ No. 06-019-MR).

On September 21, 2006, the Government filed a Motion to Reinstate the Matter in HUDALJ No. 06-015-PF and Enter Judgment against Respondents. As grounds for the reinstatement and entry of judgment, the Government relies on provisions in the Settlement Agreements which were executed by the parties, a copy of which was attached to the Motion. Respondents have not opposed the Motion.

Pursuant to the terms of the Settlement Agreements, Respondents were required to pay the Government the amount of \$16,500 in two installments: \$3,500 by June 16, 2006 and \$13,000 by August 31, 2006. The Government represents in the Motion that Respondents made the first installment of \$3,500, but failed to pay the full second installment. Respondents have paid only \$1,800 against the second installment, leaving an outstanding amount of \$11,200.

Under the terms of the Settlement Agreement executed by the parties in HUDALJ No. 06-015-PF, the parties agreed at paragraph 7, that if Respondents failed to pay as required in the Agreement, the Government "shall be entitled" to a judgment against Respondents, jointly and severally, in the amount of \$16,500 less any credit for payments made, plus interest at the rate of 8% per annum from the date of judgment. Pursuant to that agreement, the Government has now filed its Motion to Reinstate the Matter and Enter Judgment.

Since Respondents have not opposed the Motion, the Government's representations are deemed to accurately state Respondents' compliance or lack thereof with the terms of the Settlement Agreement. Accordingly, the Motion to Reinstate will be *Granted*, and judgment will be entered against Respondents as requested.

Accordingly, it is by the Court this 30th day of November, 2006, ORDERED that the Complaints in HUDALJ No. 06-015-PF be, and it is hereby is, reinstated against Respondents Jeff Birschbach and American Union Mortgage. It is also ORDERED that judgment be, and it hereby is, entered against them, jointly and severally, in the amount of \$11,200 plus interest to accrue at the rate of 8% per annum from the date of this judgment.

So ORDERED, this 30th day of November, 2006.


CONSTANCE T. O'BRYANT
Administrative Law Judge