

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

In the Matter of:

AMANDA THORNE,
ERNESTINE THORNE-AKERS,
CATHY GREENE, and
CARTERET MORTGAGE
CORPORATION,

Respondents.

HUDALJ No. 06-035-PF
OGC Case No. 06-3337-PF

DEFAULT JUDGMENT AND ORDER

On November 7, 2005, the Department of Housing and Urban Development (“Department” or “HUD”), issued a Complaint seeking a civil penalty of \$5,500 and an assessment of \$136,305.34 against Amanda Thorne, Ernestine Thorne-Akers, Cathy Green, and Carteret Mortgage Corporation (“Respondents”), pursuant to the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812 and the applicable regulations at 24 C.F.R. Part 28. The Complaint charges that Respondents made false statements relied upon by HUD in connection with an FHA-insured mortgage claim. The Complaint notified Respondents of their rights to appeal the imposition of the civil penalty and assessment by filing an Answer within 30 days of the receipt of the Complaint, and that failure to file an Answer would cause HUD to file a Motion for Default Judgment.

Respondent Amanda Thorne received a copy of the Complaint on February 1, 2006, but did not file an Answer. Respondent Ernestine Thorne-Akers received the Complaint on January 20, 2006, but did not file an Answer. Respondent Cathy Greene received the Complaint on November 9, 2006, but did not file an Answer. Respondent Carteret Mortgage Corporation received the Complaint, filed a timely Answer, and settled with the Department on March 21, 2006, for \$37,402.87,

reducing the amount sought against the remaining Respondents to \$104,402, 47. A few days thereafter, on March 31, 2006, the Department filed a Motion for Default Judgment.¹

On May 3, 2006, HUD moved to dismiss the Complaint as to Respondent Greene based on a settlement agreement and to amend the motion for default by reducing the amount sought against the remaining Respondents to \$79,402.67.²

The regulations provide that if a respondent fails to file an Answer within 30 days of receiving a Complaint, the Administrative Law Judge shall issue a Default Judgment. *See* 24 C.F.R. § 26.39(b). Failure to file an Answer to the Complaint constitutes an admission of all facts alleged in the Complaint and a waiver of a respondent's right to a hearing. *See* 24 C.F.R. § 26.39(c).

FINDINGS OF FACT

All facts regarding Respondents Amanda Thorne and Ernestine Thorne-Akers alleged in the Department's Complaint dated November 7, 2005, are hereby found to have been admitted by Respondents Amanda Thorne and Ernestine Thorne-Akers.

¹When the Department filed its motion for default judgment, this forum acquired jurisdiction over the case. *See* 24 C.F.R. §28.30(b). At that point, HUD had already settled with Carteret Mortgage Corporation, and the company in fact had previously dropped out of the case. Therefore, the company should not have been named as a Respondent in the motion for default or in any pleading subsequently filed in this forum. The Department's mistaken inclusion of Carteret Mortgage Corporation as a Respondent necessitates dismissal of the Complaint as to company in the Order below.

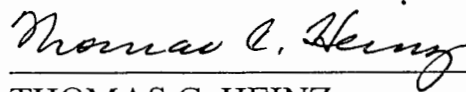
²The record indicates Respondent Greene agreed to a settlement of \$25,000.00. That amount subtracted from \$104,402.47 equals \$79,402.47, not \$79,402.67, the amount of civil penalty and assessment the Department seeks to impose against the remaining Respondents, according to the motion of May 3, 2006. Because the settlement agreements entered into by Carteret Mortgage Corporation and Respondent Greene with HUD did not indicate that any portion of the moneys paid in settlement were to be considered civil money penalties, the full \$5,500 civil money penalty originally sought by HUD will be assessed against the remaining Respondents as discussed in the text.

CONCLUSION OF LAW

By reason of the facts admitted by Respondent Amanda Thorne and Respondent Ernestine Thorne-Akers, said Respondents have committed a knowing and material violation of 31 U.S.C. § 3802(a)(1) and 24 C.F.R. § 28.10(a), for which civil money penalties and an assessment may be imposed.

ORDER

1. The Government's Motion for Default Judgment is granted in part and denied in part;
2. The Government's Motion to Dismiss Respondent Cathy Greene is granted;
3. The Complaint is dismissed as to Respondents Cathy Greene and Carteret Mortgage Corporation;
4. The Government's Amended Motion for Default Judgment against Respondents Thorne and Thorne-Akers is granted in part and denied in part;
5. Respondent Amanda Thorne and Respondent Ernestine Thorne-Akers shall pay a civil money penalty of \$5,500 and an assessment of \$73,904.47, which penalty and assessment are due and payable immediately without further proceedings; and
6. This Order shall constitute the final agency action. *See* 24 C.F.R. § 26.39(c).



THOMAS C. HEINZ

Administrative Law Judge

Dated: June 15, 2006