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

In the Matter of:

JAMES STANLEY and STANCRAFT HOMES, INC.,

HUDALJ 89-1336-DB

Respondents

Robert D. Lybrand, Esquire For the Respondents

Frank Z. Elmer, Esquire
For the Department

Before: Robert A. Andretta

Administrative Law Judge

INITIAL DETERMINATION

Statement of the Case

This proceeding arose as a result of a proposal by the Department of Housing and Urban Development ("the Department" or "HUD") to debar James Stanley and Stancraft Homes, Inc. from participation in all housing programs under the jurisdiction of the Assistant Secretary for Housing-Federal Housing Commissioner for a period of twelve months from the date of the proposal, January 20, 1989. HUD's action was based upon allegations of irregularities that occurred during the processing of the loan application of J. Michael Miklochik, an employee of Stancraft Homes, Inc.

Miklochik made application for a loan on a house built by Stancraft, which is owned by Stanley. On July 18, 1985, Stanley signed Miklochik's Verification of Employment form in spite of it's baring false information. Miklochik's base pay is shown as per year on the form, but the Employee Master Listing maintained by Stancraft shows his salary to have been per year as of September, 1985, and the amount of wages earned

and reported to the Texas Employment Commission for the period July 1, 1985, through June 30, 1986, is \$ _____. Thus, Miklochik's salary was over-reported by at least \$ _____, and this factor was an inducement to the lender to approve a loan which otherwise should not have been granted.

The loan file also contains a gift affidavit from Miklochik's parents stating that they are giving a sum of \$4,000 to him as a bona fide gift. Attempts by the Department to verify this gift proved unsuccessful, and records indicate that Stancraft loaned Miklochik the identical sum of \$4,000 on August 25, 1985. It is improper for anyone with a financial interest in the sale of a property to [provide funds to a purchaser. See, HUD Handbook 4155.1 Rev., Chapter 3, Section e(1).

On July 20, 1989, the Department served a Request for Production of Documents on the Respondents, and later agreed to an extension of time within which to respond to August 21, 1989. Respondents failed to respond, and the Department requested an order to compel response, which I issued on September 7, 1989, requiring compliance by September 18, 1989, and including an Order to Show Cause why sanctions should not be applied in accordance with 24 CFR 26.3. On that date, Respondent asked for additional time, until September 25, 1989, claiming that the Order was not received until September 15th. Nothing further was filed by the Respondents, and, on October 4, 1989, the Department filed a Motion to Dismiss the Respondents' appeal. On October 11, 1989, Respondents' attorney filed a Response To Request For Production Of Documents And Order Compelling Production in which he merely states that the documents sought "are not produced by the Defendents." The Department answered this pleading on October 17, 1989, with a Supplemental Motion And Brief To Dismiss on the basis of Respondents' failure to produce documents or to show cause why this appeal should not be dismissed in accordance with 24 CFR 26.3.

Order

A determination against the Respondents in this case is justified by their continual noncompliance with orders to produce documents requested by the Department. See, 24 CFR 26.3. Accordingly, the appeal in this case is dismissed with prejudice, and the Respondents are debarred from participation in HUD housing programs for a period of twelve months from January 20, 1989.

So ORDERED by

Robert A. Andretta
Administrative Law Judge
U.S. Department of Housing
and Urban Development

451 7th Street, S.W., Suite 2156 Washington, D.C. 20410

Dated: October 18, 1989