

SETTLEMENT AGREEMENT

This Settlement Agreement is made and entered into this, 30th day of September, 1999, by and between the United States Department of Housing and Urban Development (HUD) and Mellon Mortgage Company (Mellon) to conclude an inquiry conducted by HUD's Office of Consumer and Regulatory Affairs, Interstate Land Sales/ RESPA Division. HUD's inquiry concerned Mellon's practices for the payment of taxes and insurance premiums from mortgagors' escrow accounts and its responsiveness to consumer inquiries relating to such practices.

BACKGROUND

Pursuant to section 19(c) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2617(c)), HUD initiated an inquiry involving Mellon, a servicer of federally related mortgage loans. The purpose of the inquiry was to review certain of Mellon's practices relating to the payment of taxes and insurance premiums from mortgagor escrow accounts, and, further, to review Mellon's responsiveness to consumer inquiries relating to such practices.

As part of its inquiry, HUD asked Mellon to address the following areas: (1) Mellon's practices concerning penalties assessed by taxing authorities arising from the late payment of mortgagors' taxes; (2) whether a systemic problem existed in Mellon's practices relating to the late payment of taxes; (3) the delay, if any, between Mellon's withdrawal of funds from , mortgagor escrow accounts and payments to taxing authorities; and (4) whether a systemic problem existed relating to the payment of mortgagors' insurance premiums. Additionally, HUD requested that Mellon respond to consumer complaints that HUD had received and provided to Mellon.

In responding to HUD, Mellon asserted that: (1) it adheres to a policy and practice of absorbing charges resulting from late or incorrect tax payments, while also routinely reviewing its procedures to eliminate erroneous mortgagor charges that do occur; (2) no systemic problem exists, and Mellon ensures the timely payment of property taxes to the extent that timely payment is within its control; (3) it withdraws escrow account funds on a date as close in time as is possible to the date of remittance to the taxing authority; and (4) no systemic problem exists, and Mellon pays mortgagor insurance premiums in a timely manner through its established vendor. Mellon also noted that it has extended and enhanced its consumer call center to ensure that all consumer inquiries are routed and resolved expeditiously and properly.

HUD's inquiry about escrow accounts serviced by Mellon concerned instances where tax payments were not made in a timely manner, penalties incurred because of late payments were assessed to borrowers' escrow accounts, and borrowers were not able to get complaints addressed appropriately. Mellon has refunded penalty and interest amounts improperly charged in such cases.

Both parties to this Settlement Agreement agree that nothing in this agreement shall be construed as an admission of liability or fault on the part of Mellon.

SETTLEMENT TERMS

NOW, for and in consideration of the mutual promises and truthful representations set forth in this Settlement Agreement, and with the acknowledgment that HUD is "relying on Mellon Mortgage's representations that its production of documents had been truthful and complete, the Parties, desiring to avoid further expense, administrative proceedings, and possible litigation, and to reach a mutually satisfactory resolution of HUD's inquiry, agree as follows:

1. Mellon acknowledges and agrees to fulfill its obligation as a loan servicer, under Section 6(g) of RESPA, 12 U.S.C. § 2605(g), and HUD regulations set forth at 24 C.F.R. § 3500.21(g), to make payments from mortgagors' escrow accounts for taxes, insurance premiums, and other charges with respect to the property, in a timely manner as such payments become due. Mellon agrees that it will continue to review its payment practices routinely to detect and address any potential deficiencies in its payment practices.

2. Mellon has taken and will continue to take actions to avoid processing errors relating to payments from mortgagors' escrow accounts, including the following: (a) conducting periodic audits to verify that all loans in its portfolio are covered by active tax service contracts; (b) reconciling property tax parcel numbers on its servicing system with parcel numbers on the system of its tax service provider; and (c) providing additional staff training to ensure that each request of a taxing authority for a tax amount seeks a separate breakdown of the tax payment and related penalties, interest, and additional charges.

3. Mellon agrees that it will pay all penalties, late payment charges, and interest due in connection with taxes, insurance premiums, and other charges that are not paid from mortgagor's escrow accounts in a timely manner, except when the failure to make such payments in a timely manner are the fault of the mortgagor.

4. Mellon acknowledges and agrees to fulfill its obligation as a loan servicer, under Section 6(e) of RESPA (12 U.S.C. § 2605(e)) and HUD regulations set forth at 24 C.F.R. § 3500.21(e), to timely acknowledge and respond to "qualified written requests," defined at 12 U.S.C. § 2605(e)(1)(B) and 24 C.F.R. § 3500.21(e)(2)(i), submitted by borrowers and borrowers' agents for information related to the servicing of a mortgage loan, and to make timely corrections to borrowers' accounts in response to qualified written requests, as appropriate. In addition to fully complying with its statutory and regulatory obligations, Mellon agrees that it will continue to review its consumer call center practices to ensure that consumer inquiries are promptly and appropriately routed and addressed.

5. Mellon has examined both its payment of taxes and insurance premiums from mortgagor escrow accounts and its handling of consumer inquiries relating to such practices, and will continue to examine its practices relating to all payments from mortgagor escrow accounts and the handling of consumer inquiries relating to such practices.

6. For the period of November and December of 1999, and the first, second and third quarters of 2000, and within 40 days of the end of each quarter, Mellon agrees to report to HUD

concerning those qualified written requests addressed in 14, above, that constitute complaints concerning Mellon's payment of taxes and insurance premiums from mortgagor escrow accounts. Mellon's reports shall contain the following information:

- (a) The date of Mellon's receipt of each complaint received within the reporting period;
- (b) A description by category of the nature of each complaint received within the reporting period;
- (c) The date of Mellon's written explanation or clarification to the consumer, provided an explanation or clarification was issued within the reporting period;
- (d) A description (by category or otherwise) of the nature of Mellon's explanation or clarification, provided that Mellon has provided the explanation or clarification to the consumer within the reporting period.
- (e) Each report shall include a consolidated listing of all complaints for which Mellon has not provided to the consumer an explanation or clarification during the reporting period ("pending complaints"). Each report after the first report shall first list the pending complaints from the previous report and shall provide the date and description of Mellon's written explanation or clarification for each pending complaint, or indicate why such explanation or clarification has not been provided to the consumer.

7. Following the conclusion of Mellon's quarterly reporting to HUD as addressed in ¶ 6, above, Mellon shall submit semiannual reports to HUD for the combined period of the fourth quarter of 2000 and first quarter of 2001, and the combined period of the second and third quarters of the year 2001, within 40 days of the end of each reporting period. Mellon's semiannual reports shall contain the same information to be provided in its quarterly reports to HUD. See ¶ 6(a) - (e), above.

8. Mellon's reporting obligation to HUD as set forth in ¶6 and ¶ 7, above, shall terminate in the event that Mellon ceases to be operated as an independent entity. Mellon agrees to notify HUD in writing at least 15 days before it ceases to be operated as an independent entity, and to identify the new servicer for those loans where servicing is transferred in connection with Mellon's cessation of operation. For all other loans, Mellon's reporting obligation to HUD shall not apply when Mellon physically transfers the servicing thereof to another entity during the reporting period. Mellon acknowledges and agrees to fulfill any obligations under Section 6(b) of RESPA (12 U.S.C. § 2605(b)) and HUD regulations set forth at 24 C.F.R. § 3500.21(d), regarding notification to the borrowers of the transfer of servicing.

9. Mellon agrees to amend, and has amended its quality control plan, as follows: i

- (a) Audit quarterly a sampling of property tax payments for RESPA compliance;
- (b) Audit quarterly a sampling of tax penalties for source of payment delay;

(c) Audit quarterly a sampling of the Qualified Written Request log for RESPA compliance; and

(d) Audit quarterly a sampling of insurance payments for RESPA compliance.

10. Mellon agrees to pay HUD an administrative fee in the amount of \$20,000 for the cost of HUD's inquiry into this matter.

11. Nothing in this Agreement shall constitute an admission of fault or liability by Mellon.

12. Contingent upon full compliance by Mellon with this, Settlement Agreement, HUD and Mellon agree that this document constitutes the complete and integrated agreement for resolving HUD's inquiry into Mellon's practices for the payment of taxes and insurance premiums from mortgagors' escrow accounts and related consumer inquiries received by HUD before the date of this Agreement.

13. This Settlement Agreement does not afford any person, other than Mellon and HUD, any rights or remedies concerning the subject matter of this Agreement, but does not limit the rights or remedies of any such person.

14. Mellon requests that HUD treat the reports to be provided to HUD pursuant to ¶6 and ¶7, above, as confidential and proprietary information.

WHEREFORE, the parties hereto have duly executed this "i Settlement Agreement.

MELLON MORTGAGE COMPANY

Dated: September 30, 1999

By:

Name: Karl Krastik

Title: Acting General Counsel

**U.S. DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT**

Dated: September 30, 1999

By:

Name: Rebecca Holtz

Title: Acting Director, Office of Consumer and
Regulatory Affairs