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

THE SECRETARY, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Complainant,

v.

MARTESS COFFIELD

Respondent.

HUDALJ 09-F-003-PF-1
OGC 09-3561-PF

January 13, 2009

DEFAULT JUDGMENT AND ORDER

This case arises from a complaint for civil penalties and assessments alleging that, between approximately May 2000 and December 2003, Martess Coffield (the "Respondent"), financed the purchase of three properties by applying for mortgages insured by the United States Department of Housing and Urban Development ("HUD") through the Federal Housing Administration ("FHA"), and knowingly submitted materially false information and documentation to the lenders and HUD in support of his applications for the FHA-insured mortgages in each of the three cases.

Single Family Mortgage Insurance Program

HUD administers the Single Family Mortgage Insurance Program pursuant to section 203(b) of the National Housing Act, 12 U.S.C. § 1709(b). Under this program, the FHA, an entity within HUD, insures mortgages originated by commercial lenders to finance home purchases by qualified borrowers. The program is designed to help low and moderate income families become homeowners by lowering some of the costs associated with mortgage loans and providing protection to lenders. Lenders are encouraged to make loans to borrowers who might not be able to meet conventional underwriting requirements but are otherwise creditworthy.

In order to obtain an FHA-insured mortgage under section 203(b) of the National Housing Act, the borrower must establish, among other things, that he has income adequate to pay the mortgage and that he has a satisfactory credit standing. See 24 C.F.R. § 203.33-34. In applying for an FHA-insured mortgage, the borrower is required to provide an accurate social security number and information sufficient to verify the information. See 24 C.F.R. § 203.35; 24 C.F.R. Part 5, Subpart B. This information is then used to assist in verifying eligibility for participation in HUD programs. See 24 C.F.R. Part 5, Subpart B. In applying for an FHA-

insured mortgage, the borrower must sign a Uniform Residential Loan Application ("URLA") containing the information to be used in underwriting the loan. The borrower certifies on the URLA that:

> the information provided in this application is true and correct as of the date set forth opposite my/our signature(s) on this application and acknowledge my/our understanding that any intentional or negligent misrepresentation(s) of the information contained in this application may result in civil liability and/or criminal penalties, including, but not limited to, fine or imprisonment, or both under the provisions of Title 18, United States Code, Section 1001, et seq. and liability for monetary damages to the Lender, its agents, successors and assigns, insurers and any other person who may suffer any loss due to reliance upon any misrepresentation which I/we have made on this application.

The borrower and a representative from the lender must also sign the HUD/VA Addendum to the URLA, which contains certifications as to the accuracy of the information contained in the URLA.

The HUD/VA Addendum states that "[t]he undersigned lender makes the following certifications to induce...the Department of Housing and Urban Development- Federal Housing Commissioner to issue a firm commitment for mortgage insurance or a Mortgage Insurance Certification under the National Housing Act." An officer of the lender certifies, among other things, that "[t]he information contained in the Uniform Residential Loan Application and this Addendum are true, accurate and complete." The borrower certifies that "[a]ll information in this application is given for the purpose of obtaining a loan to be insured under the National Housing Act...and the information in the Uniform Residential Loan Application and this Addendum is true and complete to the best of my knowledge and belief." Such clauses evidence the Department's intent to have truthful certifications made on the URLA and HUD/VA Addendum. The URLA and HUD/VA Addendum are submitted to the lender and to HUD, and are relied upon by HUD in endorsing the mortgage for insurance.

Procedural Background

On September 3, 2008, HUD personally served Respondent with a three-count Complaint. The Complaint proffered that, as a result of the allegations contained therein, the Respondent was liable under the Program Fraud Civil Remedies Act of 1986 ("PFCRA") for civil penalties for false statements in each of the mortgage applications, and assessments resulting from insurance claims made against HUD in two of the resulting mortgages. Such assessments may be imposed on any person who causes to be made, presented, or submitted, a claim to the Department that the person knows or has reason to know includes or is supported by any written statement that asserts a material fact which is false, fictitious, or fraudulent. See 31 U.S.C. § 3802(a)(1)(B); 24 C.F.R. § 28.10(a)(1)(ii). Records confirm that the Respondent received the Complaint, but he did not respond.

In Counts 1 and 2 of the Complaint, the Department imposed the maximum civil penalty of $5,500[1] because the false information, statements and certifications that Respondent submitted or caused to be submitted to the lenders and HUD were material to HUD's determination that Respondent qualified for the FHA-insured mortgages and caused the filing of an insurance claim against HUD. See 31 U.S.C. § 3802(a)(1); 24 C.F.R. § 28.10(a). In Counts 1 and 2, HUD paid the lenders' insurance claims for the amount of default, and HUD imposed on the Respondent—in addition to the civil penalty—an assessment (limited to not more than twice the amount of the paid claim). See 31 U.S.C. § 3802(a)(1) & (3); 24 C.F.R. § 28.10(a)(6).[2] In the third count of the Complaint, there is no allegation that an insurance claim was made against HUD, but under the PFCRA, a civil penalty was imposed on the Respondent for making, presenting or submitting a written statement that he knew—or has reason to know—asserted a material fact that was false, fictitious, or fraudulent, accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement. See 31 U.S.C. § 3802(a)(2); 24 C.F.R. § 28.10(b)(1). In the third count, HUD imposed the maximum civil penalty of $5,500. In sum, the Complaint alleges that the Respondent is liable for three civil penalties of $5,500 each, totaling $16,500, plus two assessments totaling $248,780.00, pursuant to 31 U.S.C. § 3802(a) and 24 C.F.R. § 28.10. The total amount sought from the Respondent by HUD under the PFCRA and 24 C.F.R. Part 28 is $265,280.00.

In accordance with 24 C.F.R. § 28.25(b), the Complaint informed the Respondent, among other things, of his right to submit a written response to HUD within 30 days, and that such a response would be considered a request for a hearing. The Respondent was further advised that a motion for default judgment would be filed if he did not submit a response, and that if a default order was issued he would be liable for the civil penalties and assessments sought in the Complaint. In accord with 24 C.F.R. § 28.25(c), copies of the laws governing HUD's action were provided to the Respondent with the Complaint.

The Complaint was personally served on Respondent by Special Agent Jeffrey D. Pittano, HUD Office of Inspector General, at the Maryland District Court for Harford County, 2 S. Bond Street, Bel Air, Maryland, at the entrance to Courtroom # 1 on September 3, 2008. The Respondent has failed to submit a response to the Complaint prior to HUD's Motion for Default Judgment, filed with this Court on October 22, 2008, and, as of the date of this Order, the Respondent has not answered the Complaint. Pursuant to 24 C.F.R. § 28.30(a), the Respondent had 30 days from the date of service of the Complaint in which to submit a response to HUD. Service was complete when the Complaint was delivered to and received by the Respondent on September 3, 2008. Accordingly, a response to the Complaint was due to HUD on or before October 3, 2008, but none was received.

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[1] As originally enacted, the PFCRA provided that a civil penalty in an amount up to $5,000 could be imposed for any claim or false statement made in violation of the statute. 31 U.S.C. § 3802(a)(1) and (a)(2). Effective October 24, 1996, this amount was adjusted upward to $5,500 pursuant to the Federal Civil Penalties Inflation Act of 1990, 28 U.S.C. § 2461 note, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note. 61 Fed. Reg. 50208, 50214 (Sept. 24, 1996) (HUD final rule adjusting PFCRA civil penalty amount to $5,500) (24 C.F.R. § 28.10(a) and (b)(1)). The $5,500 maximum was in effect at all times relevant in this case. Currently, the maximum civil penalty is $7,500. 24 C.F.R. § 28.10(a) and (b)(1).

[2] A claim includes any request, demand, or submission made to the Department for money, including money that represents insurance. See 31 U.S.C. § 3801(a)(3)(A); 24 C.F.R. § 28.5 (definition of "claim").

Current Status

The above-entitled matter is now before this Court on a Motion for Default Judgment, filed on October 22, 2008, by HUD. An Administrative Law Judge may issue a Default Judgment against a respondent, upon motion, for failure to file a timely response to the Government's complaint. 24 C.F.R. § 26.39(a). Failure to file a response to the complaint constitutes an admission of all facts alleged in the complaint and a waiver of a respondent's right to a hearing. Id. at §26.39(c). The Respondent did not respond to the Motion for Default Judgment. Complaint, Exhibit 4.

On November 25, 2008, this Court issued an Order to Show Cause to the Respondent noting his failure to respond to the Complaint within 30 days of its service. The Respondent was afforded until December 20, 2008, to respond to the Court's Show Cause Order. The Respondent did not respond to the Court's Show Cause Order.

FINDINGS OF FACT

As previously indicated, the Complaint informed the Respondent, among other things, of his right to submit a written response to HUD within 30 days, and that such a response would be considered a request for a hearing. The Respondent was further advised that a motion for default judgment would be filed if he did not submit a response; that the facts alleged in the Complaint would be deemed admitted; and that if a default order was issued he would be liable for the civil penalties and assessments sought in the Complaint. Accordingly, the Court finds as follows:

1. On August 17, 2006, pursuant to 31 U.S.C. § 3803(b), HUD received authorization from the United States Department of Justice to initiate administrative proceedings seeking civil penalties and assessments totaling $265,280.00 against the Respondent, pursuant to the PFCRA.

2. On September 3, 2008, the Complaint was delivered to and received by the Respondent, and thus proper service of the Complaint occurred on that date.

3. The Respondent has failed to respond or to defend this action. Based upon the Respondent's failure to respond to the Complaint, he has foregone his right to a hearing and has admitted to the facts recited in the Complaint. Accordingly, the Court further finds as follows:

4. At all relevant times, the Respondent is the individual who purchased the three properties at issue in this matter and who financed such purchases by applying for and obtaining FHA-insured mortgages.

5. Between approximately May 2000 and December 2003, Respondent applied for and obtained FHA-insured mortgages to finance the purchases of three properties located in the Baltimore, Maryland area: (1) 130 Kensington Parkway, Abingdon, Maryland (FHA No. 241-5812761); (2) 2840 Bynum Overlook Drive, Abingdon, Maryland (FHA No. 241-6200889); and (3) 1611 Cliftview Avenue, Baltimore, Maryland (FHA No. 241-7372229). These properties correspond to the three counts of the Complaint.

6. In order to create the appearance that he was qualified to obtain these FHA-insured mortgages, Respondent knowingly submitted materially false information and made materially false statements and certifications to the lenders and HUD in support of his application for these mortgages.

7. The Respondent knowingly submitted false social security numbers in connection with his applications for the FHA-insured mortgages.

8. The Respondent knowingly submitted false information concerning his employment and income, including false wage and tax statements (W-2 Forms) and false pay stubs, in connection with his applications for the FHA-insured mortgages.

9. The Respondent knowingly submitted a false name in connection with his application for the FHA-insured mortgage on the 2840 Bynum Overlook Drive property (FHA No. 241-6200889).

10. The Respondent signed the required certifications on the URLA's, stating that the information provided in his applications was true and correct.

11. The Respondent signed the required certifications on the HUD/VA Addendums to the URLA's, stating that the information in the URLA's and the Addendums was true and complete.

12. The Respondent caused the representatives of the lenders to sign the required certifications on the HUD/VA Addendums to the URLA's, stating that the information in the URLA's and HUD/VA Addendums to the URLA's was true, accurate, and complete.

13. The Respondent knew or should have known that the certifications he signed and caused to be signed on the URLA's and HUD/VA Addendums to the URLA's were false.

14. The Department would not have insured the three mortgages at issue had it known about the false information, statements and certifications that Respondent submitted or caused to be submitted to the lenders and HUD in applying for the FHA-insured mortgages.

15. The false information, statements and certifications that Respondent submitted or caused to be submitted to the lenders and HUD were material to HUD's determination that Respondent qualified for the FHA-insured mortgages.

COUNT 1

16. On or about May 27, 2000, Respondent submitted or caused to be submitted an application for a FHA-insured mortgage to finance the purchase of a property located at 30 Kensington Parkway, Abingdon, Maryland.

17. The application stated that Respondent's social security number was 223-62-2334.

18. The Respondent knew or had reason to know that this statement was false because his social security number was not 223-62-2334.

19. The application contained 1998 and 1999 wage and tax forms (W-2 Forms) and pay stubs, which stated that Respondent had worked at American Trans for four years and earned a salary of approximately $49,500-$54,000.

20. The Respondent knew or had reason to know that this statement was false because he did not work for American Trans for four years and did not earn a salary of approximately $49,500-$54,000.

21. The Respondent signed the URLA and HUD/VA Addendum to the URLA, certifying that the information contained therein was true and correct, which caused the representative of the lender to sign the required certifications, thereby stating that the information in the URLA and HUD/VA Addendum to the URLA was true, accurate, and complete.

22. The Respondent knew or had reason to know that that these statements were false.

23. The false statements were submitted to the lender. The lender relied upon the statements in certifying to HUD that the mortgage was eligible for insurance, which resulted in HUD's agreement to endorse the mortgage for insurance on September 21, 2000 (FHA No. 241-5812761).

24. The borrower subsequently defaulted on the mortgage and the lender, on or about January 10, 2003, as supplemented on April 25, 2003, submitted a claim to HUD for $161,160.33 in insurance benefits.

25. HUD paid the claim and thereafter resold the property for $150,720.

26. Absent Respondent's false statements, HUD would not have been called upon to pay off the mortgage.

COUNT 2

27. On or about May 24, 2001, Respondent submitted or caused to be submitted an application for a FHA-insured mortgage to finance the purchase of a property located at 2840 Bynum Overlook Drive, Abingdon, Maryland.

28. The application stated that Respondent's name was Martess "E." Coffield, and that his social security number was 231-85-5183.

29. The Respondent knew or had reason to know that these statements were false because his social security number was not 231-85-5183 and his name was not Martess "E." Coffield.

30. The application contained 1999 and 2000 wage and tax forms (W-2 Forms) and a pay stub, which stated that Respondent had worked at C.C.F. Trucking for six years and earned a salary of approximately $54,500-$55,500.

31. The Respondent knew or had reason to know that this statement was false because he did not work for C.C.F. Trucking for six years and did not earn a salary of approximately $54,500-$55,500.

32. The Respondent signed the URLA and HUD/VA Addendum to the URLA, certifying that the information contained therein was true and correct, which caused the representative of the lender to sign the required certifications, thereby stating that the information in the URLA and HUD/VA Addendum to the URLA was true, accurate, and complete.

33. The Respondent knew or had reason to know that these statements were false.

34. The false statements were submitted to the lender. The lender relied upon the statements in certifying to HUD that the mortgage was eligible for insurance, which resulted in HUD's agreement to endorse the mortgage for insurance on September 20, 2001 (FHA No. 241-6200889).

35. The borrower subsequently defaulted on the mortgage and the lender, on or about May 12, 2003, as supplemented on June 26, 2003, submitted a claim to HUD for $194,789 in insurance benefits.

36. HUD paid the claim and thereafter resold the property for $200,500.

37. Absent Respondent's false statements, HUD would not have been called upon to pay off the mortgage.

COUNT 3

38. On or about December 23, 2003, Respondent submitted or caused to be submitted an application for a FHA-insured mortgage to finance the purchase of a property located at 1611 Cliftview Avenue, Baltimore, Maryland.

39. The application stated that Respondent's social security number was 410-61-1903.

40. The Respondent knew or had reason to know that this statement was false because his social security number was not 410-61-1903.

41. The application contained 2001 and 2002 wage and tax forms (W-2 Forms) and pay stubs, which stated that Respondent had worked at TJ Trucking, Inc. for nine years and earned a salary of approximately $59,000-$61,000 per year.

42. The Respondent knew or had reason to know that this statement was false because he did not work for TJ Trucking, Inc. for nine years and did not earn a salary of approximately $59,500-$61,000 per year.

43. The Respondent signed the URLA and HUD/VA Addendum to the URLA, certifying that the information contained therein was true and correct, which caused the representative of the lender to sign the required certifications, thereby stating that the information in the URLA and HUD/VA Addendum to the URLA was true, accurate, and complete.

44. The Respondent knew or had reason to know that these statements were false.

45. The false statements were submitted to the lender. The lender relied upon the statements in certifying to HUD that the mortgage was eligible for insurance, which resulted in HUD's agreement to endorse the mortgage for insurance on January 29, 2004 (FHA No. 241-7372229).

DISCUSSION

1. The making of the FHA claims would not have occurred "but for" the Respondent's misconduct.

Under the PFCRA, a prima facie case of fraud is established when a person "makes, presents, or submits, or causes to be made, presented, or submitted, a claim that the person knows or has reason to know...is false, fictitious, or fraudulent; [or] includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent...." 31 U.S.C. § 3802(a)(1).

The Complainant asserts that the Respondent "caused" the claims at issue in Counts 1 and 2 of the Complaint to be made to FHA within the meaning of 31 U.S.C. § 3802(a)(1)(B), because FHA would not have guaranteed the mortgages had it known about the materially false statements and certifications that were submitted by the Respondent in connection with the applications for FHA mortgage insurance. Thus, but for the Respondent's materially false statements and certifications, FHA would never have been called upon to pay the claims. This theory of causation has been adopted by federal courts in cases construing the False Claims Act ("FCA"), 31 U.S.C. §§ 3729-3733. The leading cases are U.S. v. Rivera, 55 F.3d 703, 707 (1st Cir. 1995), U.S. v. First Nat'l Bank of Cicero, 957 F.2d 1362, 1373-74 (7th Cir. 1992), U.S. v. Ekelman & Assoc., Inc., 532 F.2d 545, 550 (6th Cir. 1992), U.S. v. Veneziale, 268 F.2d 504, 505-06 (3d Cir. 1959), and most recently U.S. v. Eghbal, 475 F. Supp. 2d 1008, 1014-16 (C.D. Cal. 2007) (canvassing case law on causation). See also Secretary of HUD v. Olivia M. Martinez, HUDALJ 08-072-PF, pp. 12-13 (December 22, 2008); In re Salvador Alvarez, HUDALJ No. 04-025-PF, p. 6 (June 23, 2005) (awarding assessment based upon a mortgage insurance claims supported by false statements submitted by the Respondent in applications for FHA-insured mortgage).

2. **The Respondent's misconduct was a direct cause in the filing of the claims for FHA mortgage insurance.**

In two Counts of the Complaint the Respondent is charged with causing a claim to be made for the FHA insurance, after the Respondent defaulted. Following Respondent's default, the lenders made claims for payment of FHA insurance. Subsequently, HUD charged the Respondent with "causing" the submission of those claims for payment of the mortgage insurance (Counts 1 and 2 of the Complaint).

The false information, statements and certifications that Respondent submitted were material to HUD's risk evaluation in deciding to insure the loans. The falsity of that information precluded an accurate assessment of Respondent's financial condition and made it more likely that the Respondent would default. As for the lenders, the HUD insurance was doubtless a factor in the decision to issue a mortgage loan, and, upon default, it was certainly likely that the lender would choose to avail itself of that insurance and recover its loss by asserting a claim against HUD for the amount of the default. Simply stated, the Respondent's acts concealed the risk level in insuring the loan making it likely and foreseeable that claims would be made for the FHA mortgage insurance on the three loans charged in the Complaint.

Here, Respondent's submission of false information, statements and certifications to the lenders and HUD in support of his applications for these mortgages was calculated to (and did) induce HUD to insure the loans. And at the same time that false information enhanced the likelihood of a default. See Olivia M. Martinez, HUDALJ 08-072-PF, pp. 13-14, n.6. To the extent that the false information and statements certified by the Respondent understated the likelihood of default and understated the likelihood of a claim for the FHA insurance, the Respondent's misconduct was a cause of making such a claim. See id. at p. 14. Thus, in the two loans where claims were subsequently asserted, the Respondent's acts were a direct cause of the claim for FHA insurance. See id.

3. **The Respondent is liable under 31 U.S.C. § 3802(a) for civil penalties.**

As to Counts 1, 2, and 3 of the Complaint, the Respondent is liable for civil penalties under 31 U.S.C. § 3802(a)(2). The Respondent made, presented or submitted written statements that he knew – or had reason to know – asserted a material fact that was false, fictitious, or fraudulent, accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement. See 31 U.S.C. § 3802(a)(2); 24 C.F.R. § 28.10(b)(1). As to Counts 1 and 2 of the Complaint, the Respondent is liable for civil penalties under 31 U.S.C. § 3802(a)(1)(B) because the Respondent knew or had reason to know that he certified the accuracy of written statements asserting material facts in the loan applications that were false and fraudulent. The written statements asserting material facts which were false and fraudulent consisted of false social security numbers, the submission of a false name, the income/ employment information on the loan applications, W-2 forms, pay stubs, and/or verification of employment forms, and the certifications on the URLA's and HUD/VA Addendums to the URLA's signed by the Respondent.

PENALTY FACTORS ANALYSIS

The Complainant has calculated and proposed imposition of the maximum civil penalties and assessments. Following the regulatory guidance for ALJs (and the Secretary upon appeal), the Court has summarized below its determination of the mitigating and aggravating evidence pertaining to the applicable regulatory factors, based upon the foregoing factual findings. 24 C.F.R. §28.40(b) (1) to (17).

1. Each of the application packages for the three FHA-insured mortgage loans contained multiple false statements concerning social security numbers, wage and tax statements (W-2 Forms), and pay stubs of the Respondent and additionally, in one of these application packages, the Respondent provided a false name. Further, each application package included a false certification by the Respondent on the URLA and HUD/VA Addendum thereto.

2. The false statements were made over a 43-month period, from May 2000 to December 2003.

3. The Respondent is highly culpable for the misconduct. The Respondent knowingly submitted materially false information and documentation to the lenders and HUD in support of his applications for the FHA-insured mortgages in each of the three cases. The false information, documentation and certifications were relied upon by the lenders and HUD in approving and insuring the mortgages. The Respondent subsequently defaulted on two of the three mortgages, resulting in the payment of insurance claims by HUD.

4. HUD's actual loss resulting from the two claims caused by the Respondent is $24,227.39. Additionally, HUD expended resources for an investigation that uncovered the false statements and claims at issue. As a result, HUD's losses exceeded the civil penalties total of $16,500.

5. The Respondent, by submitting materially false information to the lenders and HUD to qualify himself, was able to obtain three FHA-insured mortgages to which he was not entitled. The Respondent then defaulted on two of the mortgages, resulting in claims to FHA for insurance benefits, and the pay out of Federal funds.

6. The fraud perpetrated by the Respondent was not due to any complexity in the Single Family Mortgage Insurance Program.

7. Deterrence of the Respondent and others from engaging in the same or similar misconduct is an appropriate consideration in assessing penalties. FHA relies on borrowers to provide truthful information, documentation, and certifications, in applying for FHA-insured mortgages. The imposition of civil penalties and assessments against borrowers who submit false information, documentation and certifications for FHA insured loans should be reasonably calculated to deter the Respondent and others from engaging in such misconduct in the future.

CONCLUSIONS

On the basis of the facts alleged in the Complaint, deemed to have been admitted by the Respondent's default, and found as fact by the Court, the Respondent knowingly submitted (or caused to be submitted) to FHA materially false statements in three loan applications. As discussed above, in Counts 1 and 2 of the Complaint, the submission of fraudulent documents by the Respondent was a direct, proximate cause of HUD's issuing FHA insurance, the borrowers' defaults, and the lender's making claims for payment of the FHA insurance.[3]

These false statements and claims violated 31 U.S.C. § 3802(a) and 24 C.F.R. § 28.10, and thus civil money penalties and assessments may be imposed. The unrebutted facts considered in determining civil penalties and assessments—as found above by this Court—warrant imposition the maximum amount of civil penalties and assessments.

ORDER

Accordingly, it is **ORDERED**:

1. Pursuant to the foregoing, the MOTION FOR DEFAULT JUDGMENT is **GRANTED** and the Respondent is hereby found in **DEFAULT**.

2. The Respondent shall pay HUD a total of $265,280.00 in civil penalties and assessments, such amount being due and payable immediately without further proceedings. 24 C.F.R. § 26.39(c).

3. This Order constitutes the final agency action. 24 C.F.R. § 26.39(b). The Respondent may seek judicial review of this decision as provided in 31 U.S.C. § 3805.

Alexander Fernández
Administrative Law Judge

[3] Despite considerable case law supporting such a finding on the basis that the claims could not have been made "but-for" the Respondent's misconduct, to say that any opportunity for making the claim would have been avoided—"but for" the Respondent's misconduct—is not quite the same as saying that the Respondent's misconduct caused the making of the claim. As discussed supra in the Discussion, the facts in this case establish that the Respondent's acts constituted a direct, proximate cause of the making of the claims for FHA insurance in Counts 1 and 2 of the Complaint.

CERTIFICATE OF SERVICE

I hereby certify that copies of the above-entitled DEFAULT JUDGMENT AND ORDER issued by Alexander Fernández, Administrative Law Judge, were sent to the following parties on this 13th day of January, 2009, in the manner indicated:

Cynthia Mata
Chief Docket Clerk
for Bobby Black.

REGULAR MAIL:

Martess Coffield
[redacted]

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