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

In the Matter of: UNITED LENDING PARTNERS, LP, Respondent.	HUDALJ 06-002-MR HUDOGC Case No. 05-5053-MR Decided: March 23, 2006

Todd Maiberger, Esq.
For the Government

Frederick G. Johansen
For the Respondent

Before: CONSTANCE T. O'BRYANT
Administrative Law Judge

DEFAULT DECISION AND ORDER

On September 12, 2005, the Secretary of the United States Department of Housing and Urban Development ("the Secretary" or "HUD") issued a Complaint seeking civil money penalties of $26,000 against United Lending Partners, LP ("ULP") ("Respondent") pursuant to Section 536 of the National Housing Act, (12 U.S.C. §1735f-14) and 24 C.F.R. Part 30. The Complaint alleges that Respondent violated requirements of HUD's Federal Housing Administration ("FHA") while it was an FHA-approved mortgagee. The Complaint notified Respondent of its right to appeal the imposition of the civil money penalty by filing an Answer within 15 days of receipt of the Complaint, and that failure to file an Answer timely could result in a default judgment and imposition of the penalty sought. *See* 24 C.F.R. §§26.39 and 30.90(b). Respondent received the Complaint on September 15, 2005, but failed to file an Answer within15 days of receipt of the Complaint.

On October 6, 2005, HUD filed a Motion for Default Judgment against Respondent. Respondent did not respond to the Motion. By Order dated November 18, 2005, the undersigned required the Government to supplement the record and file a brief on the jurisdiction of this tribunal to impose a civil money penalty for the failure to

comply with an indemnification agreement, which was the charge in the complaint. The Government responded on December 4, 2005, and on January 19, 2006 filed a motion to supplement its December 4, 2005 brief with arguments and evidence, which motion was granted. On February 10, 2006, the undersigned issued an Order allowing the Government until February 21, 2006 to either amend the complaint or show cause why the complaint should not be dismissed. The Government filed an amended complaint, with the required notice to the Respondent, on February 21, 2006. The Government has now filed a Renewed Motion for Default Judgment.

Jurisdiction over the civil money penalty action is conferred upon this tribunal pursuant to 12 U.S.C. § 1735f-14; 24 C.F R. Part 30, Subpart C.

Upon review of the pleadings, it appears that the matter is ripe for decision on the Renewed Motion for Default Judgment. The Respondent has failed to submit a written response to the Government's amended complaint within the applicable time period (by March 13, 2006). Indeed, Respondent has been silent throughout the pendency of the matter before this tribunal. Accordingly, the Renewed Motion for Default Judgment is hereby *Granted.*

Respondent's default constitutes an admission of the facts alleged in the Amended Complaint and a waiver of Respondent's right to a hearing on such allegations. 24 C.F.R. § 26.39(c).

Findings of Fact

1. The Board notified ULP in a letter dated March 15, 2005 ("Notice") that it was considering an administrative action and civil money penalties ("CMP") against ULP based upon ULP's failure to comply with the terms of four indemnifications agreements as identified in the Notice, pursuant to the provisions of 12 C.F.R.§ 35(a) (14). This complaint was amended on February 21, 2006. The Amended Complaint states that all the above indemnification agreements constitute settlement agreements and that ULP's failure to comply with the terms of the indemnification agreements was a failure to comply with the terms of settlement agreements with HUD in violation of 12 C.F.R. § 35(a) (14).

The indemnification agreements identified in the complaint are as follows: 1) June 3, 2003 indemnification agreements involving 10 loans (Amended Complaint ¶29); 2) November 13, 2003 indemnification agreements involving 4 loans (Amended Complaint ¶30); 3 and 4) December 2, 2003 indemnification agreements involving 4loans and 12 loans (Amended Complaint ¶13).

2. The Notice informed ULP of its opportunity to respond to the allegations of fact that were described in the attachments to the Notice.

3. ULP failed to submit a response to the Notice.

4. At all relevant times to the allegations in the Complaint, ULP was a HUD/FHA-approved mortgagee, as the term is defined in 24 C.F.R.§ 25.3. The Department approved the Respondent as a HUD Non-Supervised Loan Correspondent on or about August 16, 1999, as the term is defined in 24 C.F.R.§ 25.3. ULP's main office is in Irving, Texas.

5. Claims were made to, and paid by, HUD for loans on each of the settlement agreements, resulting in losses to HUD of approximately $882,145. HUD contacted ULP seeking payment of the debts without success. (Amended Complaint, ¶¶14-15)

6. On August 4, 2005, the Board voted, among others, to seek CMP against ULP in the amount of $26,000. In reaching the determination to impose CMP, the Board considered the factors described in 12 U.S.C. § 1735f-14 (c) (3) and 24 C.F.R.§ 30.80. (Amended Complaint ¶¶ 18-19).

By reason of the above findings of fact, I conclude that Respondent's failure to honor each settlement agreement identified in the Amended Complaint as an indemnification agreement, is a material violation of that agreement. I conclude, further, that Respondent knowingly and materially violated the terms of the settlement agreements with HUD by failing to honor the indemnification agreements.

CONCLUSIONS

Respondent has committed knowing and material violations of 12 U.S.C. § 1735-14 and HUD Handbook 4000.2 REV-2, ¶ 3-6 and ¶ 5-3, HUD Handbook 4060.1 REV-1, Chapter 6, and ¶ 2-17, HUD Handbook 4155.1 REV-4, CHG 1, ¶ 3-1, Mortgagee Letter 00-15, and Mortgagee Letter 01-01, for which civil penalties of $26,000 may be imposed. (Complaint, ¶¶ 1-60).

ORDER

Pursuant to 24 C.F.R. §§ 25.12, 26.37, 26.39, 30.35, and 30.90, it is hereby ORDERED that:

1. The Government's Motion for Default Judgment on the Amended Complaint is granted:

2. Respondent shall pay to the Secretary of HUD a civil money penalty of $26,000, which penalty is due and payable immediately without further proceedings; and

3. This Order shall constitute the final agency action.

So ORDERED, this 23rd day of March, 2006.

CONSTANCE T. O'BRYANT
Administrative Law Judge

J:Draft/MR.UnitedLendingPartners.Def.3.23.06