

# Lenders Compliance Group

Thursday, September 13, 2012

## HUD: Causes of Administrative Actions

The Department of Housing and Urban Development (HUD) has published the [Administrative Actions](#) taken by the Mortgagee Review Board (MRB) against certain FHA mortgagees. The issuance, published in the Federal Register on September 10, 2012, covers administrative actions against mortgagees from August 1, 2011 to December 31, 2011.

The MRB has the authority to issue Settlement Agreements, Civil Money Penalties, Withdrawals of Federal Housing Administration (FHA) Approval, Suspensions, Probations, Reprimands, and Administrative Payments.

Or to put this in more modern parlance, the MRB is empowered to enforce administrative sanctions, including reprimand, probation, suspension or withdrawal of approval, cease-and-desist orders, and civil money penalties

Trust me - you don't want to go there!

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### IN THIS ARTICLE

[Preparation is Protection](#)

[47 Causes of Administrative Actions](#)

[Library](#)

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### Preparation is Protection

I have said repeatedly that preparation is protection. One way to always be prepared is to consider what other mortgagees did that got them into trouble in the first place.\* Learning from the mistakes of others is a proactive way to ensure that we are following up on every aspect of our compliance requirements.

In representing clients before the MRB, I can vouch for the exhaustive due diligence that is virtually mandated, the considerable costs involved, the experienced legal counsel and requisite regulatory compliance expertise that is needed, and the significant adverse impact on an FHA lender's ability to conduct or even continue in business.

It's easy to get lulled into a sense of false confidence by thinking that some violations are minor. But if the MRB gets involved, those minor violations will become a part of the causes for administrative action, and even in some instances the proximate cause of the administrative action.

Nothing should be considered a "minor" violation, when originating HUD/FHA mortgage loans.

So it is instructive to take note of the causes for administrative action against a HUD-approved mortgagee. Ignorance is a futile defense, when it comes to the causes that can affirmatively contribute to disciplinary action. HUD's position has been consistently clear: actions taken or not taken, that are within our control, are a principal evaluator in determining a mortgagee's culpability.

As Benjamin Franklin said, "an ounce of prevention is worth a pound of cure!"

### 47 Causes of Administrative Actions

Below is a list of 47 causes that have led to the MRB taking administrative action

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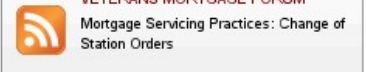
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VETERANS MORTGAGE FORUM

Below is a list of 47 causes that have led to the MKB taking administrative action.

In many cases, the civil money penalties were very large.

1. Falsified and/or conflicting information in the origination of HUD/FHA loans.
2. Failed to ensure loan applications were taken and processed by authorized employees.
3. Failed to ensure that documents were not handled by an interested third party.
4. Failed to adequately document the income used to qualify the borrower.
5. Failed to document the source of funds used for the down payment and/or closing costs; failed to perform quality control on all loans that went into default within the first six months.
6. Failed to timely submit audited financial statements and supplementary reports to HUD.
7. Failed to notify the Department that it had paid a fine to a state banking department.
8. Failed to ensure that only principal owners or corporate officers submit the annual certification report.
9. Submitted a false certification to HUD when it submitted its electronic annual certification for 2011.
10. Submitted false audited financial statements to HUD for Fiscal Year ending April 30, 2010, when it claimed ownership of a residential condominium unit.
11. Submitted audited financial statements to HUD that were not in conformity with Generally Accepted Accounting Principles due to the improper capitalization of a residential condominium unit.
12. Displayed the FHA/HUD logo on its Web site when promoting its FHA mortgage services.
13. Failed to timely submit or complete its audited financial statements for its fiscal year ending December 31, 201.
14. Failed to pay its annual certification fee.
15. Failed to submit its annual certification for 2010.
16. Failed to notify HUD that it paid a fine to a state banking department to resolve allegations that it had violated the states lenders licensing laws.
17. Failed to remit mortgage insurance premiums to HUD/FHA on its loans.
18. Failed to notify HUD/FHA within fifteen (15) days of the termination of contracts for mortgage insurance.
19. Failed to notify HUD that it voluntarily surrendered its license to a state banking department.
20. Originated FHA mortgages in a state while it was the subject of an order suspending its lending license in that state.
21. Permitted a non-FHA approved mortgage broker to perform loan origination services on its FHA loans.
22. Approved loans for borrowers who were ineligible for federally insured mortgages due to outstanding delinquent federal debt.
23. Approved FHA loans without adequately documenting the income used to qualify the borrowers.
24. Approved FHA loans without resolving discrepancies in the loan files relating to the borrowers' income and employment.
24. Failed to document the source of gift funds on FHA loans.
25. Approved a loan when the borrower did not meet the minimum credit required.



#### ARCHIVE OF POSTS

- ▼ 2012 (30)
  - ▼ September (1)
    - [HUD: Causes of Administrative Actions](#)
  - ▶ August (5)
  - ▶ July (4)
  - ▶ June (2)
  - ▶ May (2)
  - ▶ April (3)
  - ▶ March (5)
  - ▶ February (2)
  - ▶ January (6)
- ▶ 2011 (106)
- ▶ 2010 (86)
- ▶ 2009 (8)

26. Approved a loan where it omitted a liability of the borrower in the underwriting analysis.
27. Accepted loan applications from loan correspondents for which it was not an FHA approved Sponsor.
28. Failed to review FHA loans that went into early payment default within the first six (6) months of repayment.
29. Failed to comply with property preservation and protection requirements on HUD-insured homes following foreclosure.
30. Violated HUD/FHA requirements when it approved FHA loans without identifying irregularities and resolving discrepancies and conflicting information in the loan files.
31. Violated HUD/FHA requirements on FHA loans when it failed to adequately document the borrowers' income.
32. Violated HUD/FHA requirements when it approved FHA loans after failing to ensure that documents were not handled by an interested third party.
33. Violated HUD/FHA requirements on FHA transactions when it failed to document the source of funds used for the borrowers' down-payments and/or closing costs.
34. Violated HUD/FHA requirements when it approved FHA loans and omitted monthly debt obligations from its underwriting analysis.
35. Violated HUD/FHA requirements when it approved an FHA loan for a borrower who was ineligible because of an outstanding court-ordered judgment.
36. Violated HUD/FHA requirements when it approved a loan for FHA mortgage insurance without ensuring the borrower met the statutory 3.5% minimum investment requirement.
37. Violated HUD/FHA requirements when it approved a loan for a borrower that was over insured, because it had failed to consider the seller's inducement to purchase.
38. Failed to timely remit mortgage insurance premiums.
39. Failed to notify HUD that the mortgagee and its President were issued a Complaint and Cease and Desist Order from a state banking department that required the mortgage to pay fines, ordered it to permanently cease and desist from operating and engaging in the business of a lender in that state, required it to immediately surrender its lender's license, and barred its president from serving as an officer, director, or owner of any financial institution in the state.
40. Failed to comply with HUD's quality control requirements.
41. Violated HUD's mortgagee employee and staffing requirements.
42. Charged unallowable and unsupported fees.
43. Reproduced the official HUD seal on an advertisement or business solicitation, and disseminated a misrepresentative or misleading advertisement or business solicitation to the public.
44. Failed to ensure that the quality control reviews for early payment defaults were completed.
45. Used conflicting information in originating and obtaining HUD/FHA mortgage insurance.
46. Failed to adequately document the stability of income used to qualify the borrowers.
47. Failed to notify HUD/FHA within 15 calendar days of the termination, transfer or sale of mortgage insurance contracts.

### Library





Department of Housing and Urban Development

### Mortgagee Review Board: Administrative Actions

Federal Register: 77/175

September 10, 2012

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