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TO: E. Ross Burton
Director, Fort Worth Multifamily Housing HUB, 6AHMLAS
Linda K. Hardway
Director, Little Rock Multifamily Program Center, 6FHM
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Director, Departmental Enforcement Center, CV

FROM: D. Michael Beard
Regional Inspector General, 6AGA

SUBJECT: United Properties Management, Inc.
Multifamily Management Agent
Little Rock, Arkansas

INTRODUCTION

As part of our initiative to combat equity skimming, we have completed an audit of 12 multifamily projects managed by United Properties Management, Inc. (United). HUD either insured or held the mortgages on the properties. The owners sign regulatory agreements with HUD. The objective of the audit was to determine whether United complied with the regulatory agreements and HUD requirements when disbursing project funds.

To accomplish the objective, we reviewed HUD's regulations regarding Section 202, Section 811, Section 221(d)(3), and Section 221(d)(4) Programs, project regulatory agreements, HUD handbook requirements, and the owner's and management agent's certifications. We interviewed United's owners and staff, and HUD Multifamily Housing officials in Little Rock, Arkansas. We reviewed accounting records and supporting documents such as bank statements and invoices. The audit covered a 41-month period: April 1, 1998, the date HUD approved United as a management agent, through August 31, 2001, the latest completed period at the time. We conducted the audit in accordance with generally accepted government auditing standards.

In accordance with HUD Handbook 2000.06 REV-3, within 60 days please provide us, for each recommendation without a management decision, a status report on: (1) the corrective action taken, (2) the proposed corrective action and the date to be completed, or (3) why action is considered unnecessary. Additional status reports are required at 90 days and 120 days after report issuance for any recommendation without a management decision. Also, please furnish us copies of any correspondence or directives issued because of the audit.

Should you or your staff have any questions, please contact Jerry Thompson, Assistant Regional Inspector General, at (817) 978-9309.

SUMMARY

United officials disbursed project funds for items that violated project regulatory agreements with HUD. Officials used project funds to pay United's supervisory expenses, unsupported accounting costs, and a property owner's debt. In addition, officials made erroneous payments, loaned money to a site manager, and made unsupported payments. As a result, United officials misspent \$445,612, which negatively affected the financial condition of the properties.

We recommend that HUD require United's owners to: (1) repay the projects for ineligible payments and (2) either furnish supporting documents or repay the projects for unsupported payments. If the owners do not payback amounts they misspent, we recommend that HUD impose administrative sanctions against them.

We provided United officials a copy of the draft on June 21, 2004, and received a written response from them on July 15, 2004. They do not agree with the findings and say we have been unwilling to listen to their explanations. They say they provided support for questioned costs contained in our report. They declined to have an exit conference. Their response did not change our position. They did not provide documentation required to adequately support the questioned costs. We have included the complete response in Appendix B.

BACKGROUND

HUD's Office of Multifamily Housing administers programs to provide an adequate supply of quality affordable housing. Programs include the Supportive Housing for the Elderly Program¹ (Section 202), Supportive Housing for Persons with Disabilities Program² (Section 811), and the Mortgage Insurance for Rental and Cooperative Housing Program³ (Section 221(d)(3) and (4)).

- Section 202 provides capital advances to finance the construction and rehabilitation of structures that will serve as supportive housing for very low-income elderly

¹ Section 202 of the Housing Act of 1959 is governed by 24 CFR Part 891.

² Section 811 of the National Affordable Housing Act of 1990 is governed by 24 CFR Part 891.

³ Section 221(d)(3) and (4) of the National Housing Act is governed by 24 CFR 221, subparts C and D.

persons. It also provides rent subsidies for the projects to help make them affordable.

- Section 811 provides interest-free capital advances to nonprofit sponsors to finance the construction, rehabilitation, or acquisition with or without rehabilitation of supportive housing to be used for very low-income adults with disabilities. It also provides rental assistance. The program is similar to Section 202.
- Sections 221(d)(3) and (4) provide mortgage insurance to finance rental or cooperative multifamily housing for moderate-income and displaced families. Through the programs, the Federal Housing Administration insures mortgage loans for the new construction or substantial rehabilitation of multifamily rental projects. The difference between (3) and (4) is that HUD may insure up to 100 percent of replacement cost under (3) for nonprofit or cooperative mortgagors, but only up to 90 percent under (4) irrespective of the type of mortgagor.

The property owner participating in HUD programs has the ultimate responsibility for compliance with HUD regulations and requirements. The property owner pledges compliance by signing a regulatory agreement with HUD. The agreement governs project operations.

The property owner may seek out and hire a management agent, which is subject to HUD approval. HUD expects an owner to oversee the performance of its management agent and take steps to correct deficiencies that occur. If the owner does not, HUD will step in to assure compliance with applicable HUD regulations and program requirements.

Management agents play a key role in helping HUD provide quality affordable housing. The owner and management agent together certify in writing that they will comply with HUD requirements and contract obligations. HUD Handbook 4381.5 REV-2, *The Management Agent Handbook*, provides basic guidance regarding owner and management agent responsibilities and HUD procedures.

During the period of audit, April 1, 1998, through August 31, 2001, United managed 12 projects that HUD either assisted or insured. HUD held the mortgages of five properties under Section 202,⁴ which exceeded \$9.6 million. HUD assisted one property under Section 811⁵, with a capital advance and project rental assistance that together exceeded \$1.8 million. HUD insured the mortgages of five properties under Section 221(d)(3)⁶ and the mortgage of one property under Section 221(d)(4),⁷ which exceeded \$7.9 million.

⁴ Park Street Apartments, St. John Alexander Towers, Sarah Daisy Garden Courts, Shorter College Plaza, and Theresa James Manor are owned by nonprofit corporations.

⁵ Chaucer Street Apartments, which is owned by a nonprofit corporation, does not have mortgage payments so long as the housing remains available to the very low-income elderly and disabled person..

⁶ Chicot Apartments, Pilgrim Rest Apartments, St. John Apartments (26th Street), and Shorter College Gardens are owned by limited partnerships. West Apartments is owned by a nonprofit corporation.

⁷ Scott County Apartments is owned by a limited partnership.

Before United, Mays Property Management, Inc. (Mays) managed eight of the above projects. In addition to managing the projects, Mays had ownership interest in four of the properties. It was the managing general partner of the limited partnerships that owned three properties: Chicot Apartments, St. John Apartments, and Shorter College Gardens. It was a general partner of the limited partnership that owned Pilgrim Rest Apartments.

In July 1997, United began managing the eight projects for Mays. United is an outgrowth of Mays and is owned and operated by former Mays officials. United's majority stockholder was Mays' executive vice-president, and United's minority stockholder was Mays' comptroller. Initially, United's principal staff was all former Mays employees. By September 1998, United had officially replaced Mays as management agent for all eight projects.

Management of the four projects, which Mays had not managed, started in 1997. United began managing Shorter College Plaza in June 1997, Scott County Apartments in February 1999, Park Street Apartments in September 1999, and Chaucer Street Apartments in July 2000.

The projects paid United monthly fees for its management services. The fees approximated \$30,000 a month.

The HUD Office of Inspector General's initiative to combat equity skimming consists of audits such as this one where auditors consult with the appropriate United States Attorney's Office and HUD Assistant General Counsel to recover project funds used in violation of the regulatory agreement. Under Title 12, United States Code, Section 1715z-4a, HUD may recover double the amount of project assets used for purposes other than those permitted by the regulatory agreement, plus the cost of any audit, litigation, and attorney's fees. We provided a prosecution/litigation package to the HUD Assistant General Counsel on March 31, 2003, and to the United States Attorney's Office, Eastern District of Arkansas on May 13, 2003.

The United States Attorney has declined prosecution since the Director of the Little Rock Multifamily Program Center did not support a lawsuit against United and the principals that manage United. On May 17, 2004, we received a copy of a letter dated May 10, 2004, from the United States Attorney to the Director, Little Rock Multifamily Program Center. In the letter, the United States Attorney advises that he has decided not to institute a civil action against United and the involved individuals. He declined because of the Director's assertions about United, which she expressed in her letter dated April 5, 2004, to the Assistant United States Attorney. In the letter, the Director states she allowed the management agent to continue business with HUD because:

- Punishment must be consistently applied to HUD partners, and there are examples of more egregious violations in HUD programs where the participant was not suspended or debarred;
- Mays Property Management no longer exists;
- United Properties Management has no, and never had, business affiliation with Mays Property Management; and

- United Properties Management has addressed the financial irregularities with the OIG, and has corrected its previous erroneous accounting practices to HUD's satisfaction.

In addition, she does not see United as a threat to HUD's interest in multifamily properties. To the contrary, she states that United is one of her best management agents to intervene in troubled properties and return them to HUD standards.

The audit results below do not support the Director's assertions about United and its principals. Since the United States Attorney has declined civil prosecution, we have addressed this report to HUD management for resolution.

FINDING

United officials misspent over \$445,000 of project funds.

In violation of regulatory agreements, and without HUD authorization or knowledge, United officials used project funds to pay:

- \$218,428 in management agent supervisory expenses;
- \$126,893 of a management agent owner's salary;
- \$28,938 in an owner's secondary loan payments;
- \$14,200 in erroneous payments related to the former management agent;
- \$2,940 in duplicate payments to a contractor and for a loan to a project manager; and
- \$54,213 in payments that were not supported by adequate documentation such as approved invoices.

This happened because officials disregarded requirements and, to a lesser extent, United staff made errors, which United had not corrected and paid back the properties. As a result, officials misspent over \$445,000, which negatively impacted the financial condition of the properties.

The regulatory agreements direct the following.

- “Neither Mortgagor nor its agents shall make any payment for services, supplies, or materials unless such services are actually rendered for the project or such supplies or materials are delivered to the project and are reasonably necessary for its operation. Payments for such services, or materials shall not exceed the amount ordinarily paid for such services, supplies, or materials in the area where the services are rendered or the supplies or materials furnished.”
- The regulatory agreements prohibit the use of project funds, other than surplus cash where applicable, for unreasonable and unnecessary operating costs.

- Distributions to owners⁸ of limited distribution projects are limited and distributions to owners of nonprofit projects are prohibited.
- Distributions to owners are prohibited when a project mortgage is in default, the project is in a non-surplus cash position, or HUD has notified the owner that the project is in need of maintenance.
- Books and accounts of the operations of the mortgaged property and of the project shall be kept in accordance with the requirements of HUD and in a reasonable condition for proper audit.

United owners entered into *Project Owner's & Management Agent's Certifications for Multifamily Housing Projects for Identity-of-Interest or Independent Management Agents* (Certifications). Those Certifications required United to comply with the regulatory agreements, HUD handbooks, and other policy directives that related to the management of the projects.

HUD Handbook 4381.5 REV-2, *The Management Agent Handbook*, provides basic guidance regarding owner and management agent responsibilities and HUD procedures. *The Management Agent Handbook* requires salaries of management agents' supervisory staff not assigned to any project, to be paid from the agent's management fee and not from project-operating funds.

According to *The Management Agent Handbook*, Paragraph 6.39(c), agent supervisory personnel must be paid from the management fee unless one of the two exceptions is met. The exceptions are when supervisory personnel:

- Provide oversight of centralized accounting and computer services for projects at a cost that does not exceed the cost of obtaining comparable services from an independent contractor or
- Replace a project employee on temporary leave after the first 40 consecutive hours of the assignment.

The Handbook requires travel expenses for management agents' supervisory staff to be paid from management agent fees. In addition, HUD does not allow reimbursement of commuting mileage from project funds.

For centralized accounting services, the Handbook requires management agents to charge the properties for bookkeeping costs based on actual costs. According to the HUD handbook, the agent is responsible for treating the cost of bookkeeping services performed as part of a centralized bookkeeping system as a project cost. Such expenses are paid out of project funds based on actual costs attributable to the project.

⁸ A distribution is any withdrawal or taking of cash or any assets of the project other than for the payment of reasonable expenses necessary to the operation and maintenance of the project.

For the period of the audit, HUD had established an acceptable accounting fee range of \$3.50 to \$6.00 per unit per month. The range was set for Region VI, which includes Arkansas. Thus, HUD limited costs of accounting fees charged to projects to the lesser of actual cost or \$6 per unit per month. HUD's intent was to reimburse the actual costs incurred but not provide additional income to management agents.

HUD Handbook 4370.2, REV-1, *Financial Operations and Accounting Procedures for Insured Multifamily Projects*, Chapter 2, Section 2-6, paragraph E, states all disbursements from the Regular Operating Account must be supported by approved invoices, bills, or other supporting documentation. The use of operating funds should only be to make mortgage payments, make required deposits to the Reserve for Replacements, pay reasonable expenses necessary for the operation and maintenance of the project, and repay owner advances authorized by HUD.

United charged \$218,428 of supervisory staff expenses to the projects.

United officials used \$218,428 of project funds to pay United \$217,446 in management agent salaries and \$982 in management agent mileage expense. This occurred because United officials disregarded requirements.

United paid the salaries of its district manager and administrator from project-operating funds even though they did not meet the requirements for payment. Both are related to the owners of United. United paid \$122,539 and \$94,907 for the salaries of the district manager and administrator, respectively. Officials made the payments between May 1, 1998, and September 30, 2001.⁹ However, time records did not show that either one had provided oversight of centralized accounting or computer services for projects or had worked as a temporary project employee for more than 40 consecutive hours.

Furthermore, the ineligible salary of the administrator exceeded the actual salary paid to the administrator by \$21,491. Of the excess, \$18,148 resulted from billing salary for drug elimination grant work to project-operating funds. This duplicated what United had collected from the HUD drug elimination grants for the same period. The remaining \$3,343 resulted from errant charges to projects.

HUD staff had conducted management reviews and reported that the management agent was using project-operating funds to pay supervisory salaries. Staff disclosed the finding following HUD's August 1997 management reviews of properties managed by Mays Property Management and United Properties Management. Staff concluded that officials should have paid those salaries from management fees. Staff advised officials to become familiar with HUD Handbook 4381.5 REV-2. It sets out specific situations when management agents can charge supervisory salaries to projects.

United officials did not comply with HUD requirements. Officials did the opposite of what they said they would do. In a letter to HUD dated November 14, 1997, United's majority stockholder wrote that officials had ceased paying for supervisors' salaries from project

⁹ The costs were incurred before the end of August 2001.

funds. Contrary to that statement, officials continued to charge supervisor salaries to the projects.

United officials misled HUD staff by reporting that the district manager and administrator did not perform any supervisory functions. In a letter dated November 5, 1997, HUD staff asked for generalist job descriptions of all central office staff that perform HUD-approved activities and do not perform supervisory functions. HUD requested job descriptions of persons whose salaries are reimbursable from project funds.

In a letter to HUD dated November 13, 1997, United's minority owner described the jobs of the district manager and administrator. His descriptions were not complete because he omitted their supervisory functions. For example, the district manager had oversight responsibility for project managers and the administrator had oversight responsibility for employees doing grant work. He only listed functions that one could charge to projects, leaving the impression that the two did not perform supervisory functions for United, which was not true.

In addition, during March and May 1999, United used Scott County Apartment funds to pay \$982 to its administrator for mileage to and from the property. United officials disregarded HUD direction that commuting mileage is not reimbursable from property funds. An official said they paid the mileage from project funds because at the time the administrator was the acting on-site manager.

United charged \$126,893 of an owner's salary as accounting cost to the projects.

For the pay periods between April 1, 1998, and August 31, 2001, officials reimbursed United \$126,893 for the salary of its minority owner. Officials used project-operating funds to reimburse the owner's salary as accounting fees. However, they had nothing to support the salary as accounting costs, which *The Management Agent Handbook* requires. The owner had not prepared reports to record his actual accounting time.

Furthermore, if the salary was in fact an accounting cost, United officials had overcharged the projects \$61,712. For the period, HUD had set the maximum accounting costs at \$6 per unit per month for Arkansas properties. However, total accounting fees, which included part of the owner's salary, exceeded the limit. United Officials said HUD had never provided documentation showing that HUD had a \$6.00 per unit per month maximum for accounting costs.

United officials paid \$28,938 from project-operating funds on a second mortgage.

Between December 1, 1998, and September 30, 2000, United officials used \$28,938 of non-surplus project-operating funds to pay down the property owner's second mortgage. This occurred because officials disregarded HUD requirements and the promissory note terms that specified payment from surplus cash.

In order to rehabilitate the property, the owner, 26th Street Limited Partnership obtained a \$415,000 secondary loan from the Arkansas Development Finance Authority (Authority),

using St. John Apartments as collateral. On September 4, 1997, the president of the 26th Street Limited Partnership signed the promissory note dated June 3, 1997, and the second mortgage on St. John Apartments.

HUD Handbook 4350.1, REV-1, *Multifamily Asset Management and Project Servicing*, governs the approval of second mortgages. Appendix G, Section II (F), *Secondary Financing*, authorizes only the use of surplus cash to make payments on secondary mortgage notes.

HUD worked with the Authority on the terms of the note between 26th Street Limited Partnership and the Authority. The note in part reads:

“...Any payments due from project income under this Note shall be payable only from permissible distributions from surplus cash of the said project, as that term is defined in the regulatory agreement dated November 7, 1968, between the Secretary of Housing and Urban Development and 26th Street Limited Partnership.”

Thereby the promissory note limits payments from the project to permissible distributions from surplus cash. St. John’s regulatory agreement, Section 6(e), further limits use of surplus cash by specifying a time for distribution and requiring written approval from HUD.

Officials paid down the second mortgage from the operating account despite not having surplus cash. The project reported cash deficiencies of \$89,808 at September 30, 1998, \$51,483 at September 30, 1999, and \$56,050 at September 30, 2000. Officials made second mortgage payments, generally on a monthly basis.

United’s minority owner stated that HUD’s asset manager had authorized him to pay the second mortgage from project funds. However, he had nothing in writing to support this approval. The asset manager asserted he had not given HUD’s authorization to make second mortgage payments with project-operating funds.

United erroneously paid \$14,200 to and for Mays Property Management, Inc.

United officials made two erroneous payments totaling \$14,200 to and for the former management agent, Mays Property Management, Inc. (Mays). They overpaid Mays \$4,626 because of an accounting error. They also inadvertently paid Mays’ own \$9,574 payroll for the period ending December 25, 1998. Auditors advised officials of the misspent funds on January 29, 2001. However, officials had not paid back the funds to the projects.

An accounting error resulted in Pilgrim Rest reimbursing Mays three times for its March 15, 1996 payroll. While under Mays’ management, Mays correctly reimbursed itself \$2,333 on March 18, 1996, for the project’s March 15, 1996 payroll. Sometime after the payment, United’s accounting clerk incorrectly entered the March 15, 1996 payroll as a payable to Mays, revising the amount to \$2,313. When the payroll clerk saw her mistake, she attempted to remove the payable from the books. But instead she entered the \$2,313

amount again, increasing the payable amount to \$4,626. On June 30, 1998, United officials issued a \$4,626 check from Pilgrim Rest to Mays for the payable.

On January 4, 1999, officials used West Apartment's funds to pay \$9,574 to a payroll processing company for Mays' payroll for its period ended December 25, 1998. The payroll had nothing to do with the operation of the project. It included \$5,900 for the salary of the owner of Mays.

United owes two projects \$2,940 resulting from duplicate payments to a contractor and a loan to a project manager.

United owes Theresa James Manor and Chicot Apartments \$2,740 and \$200, respectively. From project-operating funds of Theresa James Manor, United overpaid a contractor twice. From project-operating funds of Chicot Apartments, United loaned a site manager \$800, which was not a proper use of funds, and the site manager still owes \$200 on the loan.

United officials made two duplicate payments to a contractor. United made the payments from the operating account of Theresa James Manor for cabinets and countertops.

- On May 20, 1998, and again on June 2, 1998, they paid the contractor the total amount of the April 30, 1998, invoice for \$1,370. As a result, they paid the contractor \$2,740 (checks #6024 and #6046), which includes an overpayment of \$1,370.
- On July 20, 1998, and again on August 17, 1998, they paid the contractor \$1,370 for cabinet units and countertops installed in Units A211 and A215. As a result, the project paid the contractor \$2,740 (checks #6120 and #6179) for the work, which includes another overpayment of \$1,370.

On April 29, 1998, United loaned the manager of Chicot Apartments \$800. Instead of using United's funds they used project funds. Officials acknowledged that they should not have used project funds.

The manager quit before she repaid the loan, leaving a balance of \$200 owed. To write-off the \$200 outstanding is not an eligible project-operating expenditure since the loan was not an eligible use of project funds. Therefore, United should pay back the project.

United used project funds to pay unsupported purchases totaling \$54,213.

From April 1, 1998, through August 31, 2001, officials paid \$54,213 from project-operating funds without having approved invoices, bills, or other supporting documentation. As a result, officials had nothing to show that the costs were necessary and reasonable, as required by the regulatory agreements.

United officials wrote 25 checks totaling \$24,000 from three project accounts. From the Shorter College Gardens account, officials wrote nine checks payable to a local bank. The checks totaled \$11,450 and were written monthly starting on April 1, 1998, through December 31, 1998. Amounts ranged from \$750 to \$1,800. From the St. John Apartments account, they wrote nine checks payable to a local bank. The checks totaled \$7,550 and were written monthly starting on April 1, 1998, through January 31, 1999, except December 1998. Amounts ranged from \$450 to \$1,350. From the Pilgrim Rest Apartments account, they wrote seven checks payable to an individual. The checks totaled \$5,000 and were written monthly starting on April 2, 1998, through October 1, 1998. Amounts ranged from \$600 to \$900.

Officials stated the checks paid for grounds work at the three projects. However, they had nothing from the payees, or any other party, to support the payments.

United officials wrote checks totaling \$30,213 to two contractors and a site manager. Invoices or other similar documents from the three payees supported none of the checks. Although the contractors generally provided invoices, invoices or other similar documents did not support payments totaling \$30,013 to the contractors. Without supporting documents officials could not show that the payments were for reasonable operating costs or necessary repairs. Officials wrote one check for \$200 to a site manager. However, they did not have anything to support the payment.

Auditee Comments

United's president disagrees with the findings except for the duplicate payments and the loan to a project manager.

The president says the audit started with the audit of Mays Property Management, Inc. (Mays). The OIG carried the audit over to United. The OIG did this because the owner of Mays is the father of the majority owner and president of United.

He says United is not an outgrowth of Mays. United is a new company and not Mays with a new name. It is a company that has had success in bringing properties up to HUD standards. The change caused vastly improved financial and physical conditions.

Additionally, he says he was not ever the president and has never had an ownership interest in Mays. It is not unusual for persons to leave one company to form another one. This is what they did and United has had great success. United's actions have not harmed the properties. He asserts United saved the properties more than \$300,000 over the 41 months, the audit period.

Further he believes the report is not balanced. It states that United Properties earned \$30,000 a month in management fees. However, the OIG did not report that United had many times deferred its fees to pay operating expenses. Some properties still owe United Properties deferred fees. In addition, the OIG refuses to acknowledge the positive results reported by HUD.

The OIG has unduly audited United compared to others that have violated HUD requirements. He believes the audit is unfair and that someone in an influential position is behind it.

In addition to the above general comments, he provided the following specific comments:

- United followed the handbook when it charged \$218,428 of supervisory staff expense to the projects. The staff had done front-line and day-to-day activities. The handbook shows such costs are eligible property expenses. In addition, the administrator did two jobs: grant work and property work. Therefore, United paid the administrator from grant funds and property funds, which HUD had approved.
- The salary of the Minority Owner is accounting costs. The report implies that United just classified his salary as accounting work to skim money from the properties. This is not true. A simple analysis shows United charged a very reasonable fee for accounting.
- He acknowledges that United paid \$28,938 from project-operating funds on a second mortgage note. However, he says that the HUD asset manager, after talking to the second mortgagee, instructed United to make the payments until the payment issue is resolved. The payments did not benefit United in anyway.
- United had support for the purchases totaling \$54,213 that the OIG questioned as unsupported costs. The auditor said the documents were not good enough.

OIG Evaluation

This audit did result from our audit of Mays Property Management, Inc. As stated in our report, two officials left Mays and formed a new company, United. All the operating personnel of Mays Property Management became the personnel of United. Mays ceased operations and turned over the management of all its HUD properties to United. In addition, United initially used the Mays' bank account. Since we had found problems with Mays expenditures in a previous audit, we surveyed payments to find out whether the same problems existed at United. The survey disclosed United misspent funds and this led to the in-depth audit work. The family relationships had nothing to do with the decision to do the audit.

Although based on a corporate resolution dated October 22, 1996, we concluded that Gregory T. Mays was the president of Mays Property Management, Inc.; we accept Mr. Mays' statement that he was not the president of Mays and have revised our report.

With regard to the comments regarding the objectives and scope of the audit, our objective was to determine whether United complied with the regulatory agreements and HUD requirements when disbursing project funds. We believe our scope was sufficient to accomplish this. Our scope did not include an objective to determine whether United Properties deferred its fees.

The comments regarding our finding that United misspent project funds did not change our position. United officials could not provide us any evidence required to show the questioned disbursements, i.e., the supervisory staff expense, the charges for the minority owner's salary, or the unsupported costs, were appropriately charged to the projects, necessary and reasonable project operating costs, or consistent with HUD requirements. As our finding states, United could not provide invoices, bills, or other adequate documentation for the unsupported costs. Further, HUD officials deny approving the payments on the second mortgage and any of the questioned charges to the projects.

RECOMMENDATIONS

We recommend the HUD Directors of Multifamily Housing:

- 1A. Require United owners or the property owners to repay the projects \$264,506 for the ineligible expenditures from project funds.
- 1B. Require United owners or the property owners to repay the projects \$181,106 for the unsupported expenses, if the owners cannot furnish adequate documentation supporting those costs as reasonable and necessary operating expenses.

We recommend the Director, Departmental Enforcement Center:

- 1C. Take administrative sanctions against the owners of United.

MANAGEMENT CONTROLS

Management controls include the plan of organization, methods and procedures adopted by management to ensure that its goals are met. Management controls include the processes for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance.

We determined that the following management controls were relevant to our audit objective to determine whether United complied with the regulatory agreements and HUD requirements when disbursing project funds:

- Controls to ensure compliance with regulatory requirements

It is a significant weakness if management controls do not provide reasonable assurance that the process for planning, organizing, directing, and controlling program operations will meet an organization's objectives.

Based on our objective we gained an understanding of the applicable controls. However, we did not test or rely on them in conducting the audit. We generally reviewed all allocation and disbursement transactions.

SCHEDULE OF QUESTIONED COSTS

<i>Recommendation No.</i>	<i>Type of Questioned Cost</i>	
	<i>Ineligible¹</i>	<i>Unsupported²</i>
1A	\$264,506	
1B		\$181,106
Totals	\$264,506	\$181,106

- 1 Ineligible costs are those that are questioned because of an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds.
- 2 Unsupported costs are those whose eligibility cannot be clearly determined during the audit since such costs were not supported by adequate documentation. A legal opinion or administrative determination may be needed on these costs.

July 2, 2004

Mr. Michael Beard
U.S. Dept of Housing
& Urban Development
Office of Inspector General
301 North West 6th Street, Ste. 322
Oklahoma City, OK.73102

RE: Draft Report on Audit of United Properties Management, Inc.

Mr. Beard,

After reviewing the audit report you sent me, we have no further comments to make at this time, nor has our position changed from the meeting we had with your auditors on September 26, 2002. We disagree with your findings, and can see no reason to meet with you any further on this matter. Your office has been unwilling to listen or acknowledge anything we have said regarding this matter to this point, and in reading your report we can't see where anything has changed.

Mr. Beard I am fully aware of the fact that this audit started with Mays Property Management, Inc. and it was carried over to our company United Properties Management, Inc. for no other reason than George Mays being my father. I asked your auditors, would United be going through this audit, if George Mays was not my father? Their answer was no.

This is evident in your report when you refer to United Properties as an outgrowth of Mays Property, this couldn't be further from truth. We are a new company and not the same company with a new name, there has never been any consideration or objectivity shown by the Office of the Inspector General to the differences in our management procedures, the quality of our work, our record keeping, or the improvements made to the properties physical and financial conditions since United Properties started managing them. The audit mentioned that we received eight of the properties we currently manage from Mays Property Management, but there was nothing mentioned about the condition of those properties when we received them or the fact that they have greatly improved since will started managing them. Or the fact the other four properties we picked up after we became United Properties were all troubled properties at the time we got them and we brought them back up to HUD standards.

The audit also refers to me as the president of Mays Property Management this is also incorrect. I was never president or had any ownership in Mays Property. Your report continues with highlighting a few people who your office refers to as our principal staff were former employees of Mays Property. What is so unusual about people leaving a company they once worked for and start another company in the same field? This is done



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all the time in every profession. Lawyers, Doctors, Real Estate, Politicians, Accountants and other professions use this same practice when starting their business. So why are we any different?

These were all highly trained, qualified professionals who I knew could do a great job if given the chance. What was I suppose to do fire these people because they worked for the company I was leaving? If you or anyone else were in a professional position was about to leave their job to start their own business they would also try to take some of their current staff to work for them.

This in itself shows that while this audit may have been done professionally it was done with an unfair slant and with the intent to discredit United Properties Management. Your office took the position of assuming us guilty of skimming before the audit began, every thing that came after that was just to justify that position. It is very clear to us that the mission of this audit was to have United Properties Management stopped from doing business with HUD. For no reason other than me being the son of George Mays.

Your office has not once looked at any other possible reason for their findings other than saying United Properties misspent or made unsupported payments which had a negative impact on the financial condition of the property. If we impacted the properties in such a negative way how did these properties improve? Where did the funding come from to make the improvements to the properties? No one has ever asked that question.

The report mentions that United was paid \$30,000.00 a month in management fees for it's management services, but not once did your report mention how many times these properties were unable to pay those monthly management fees, how many times we had to defer taking our fee so we would have the funds needed to pay operating expenses to keep the property going or how much some of these properties still owe United in deferred management fees.

Not once did your office say we believe at the OIG office that there were some mistakes made in interpreting the HUD handbook and these things will need to be corrected. United Properties will need to meet with the HUD office to address how this will be corrected.

Anyone who has worked with or inspected the physical or financial condition of the properties and has anything positive to say about United Properties, is disregarded or is being mislead by United, The Director of HUD, REAC, OMHAR. The auditor position is they have all been mistaken about United Properties, United tricked them, or the officials disregarded requirements, anything but the OIG office may have been mistaken in some of their conclusions about their findings.

I don't think there has been any startup property management company in the Little Rock HUD office portfolio that I know of, that has had to go through an audit like the one United experienced. I don't know of any who had an audit last this long. There are management companies doing business with HUD longer then we have, some of the

properties we acquired have come from them, who have openly violated HUD programs and they have yet to have any actions taken against them or even undergone an audit to this day.

I believe the OIG's Office uses quality government standards when performing an audit, I also agree with the need for the OIG to perform these audits. I don't believe this is what initiated this audit, nor was it done in a fair and impartial manner. I believe that someone in your office or someone who has influence with your office created the need for this audit and it's outcome.

Sincerely

Gregory T. Mays
President
United Properties Management, Inc.

AUDIT FINDINGS

United charge \$218,428 of supervisory staff expenses to the projects.

Response: United disagrees with this finding. We did not violate our regulatory agreement or the HUD 4381.5 REV -2, Handbook. All Superintendents or Agent staff performing front-line functions is outlined on page 6-29 section 6.38 a. Front-line Cost and Day to Day Activities, and continues through pages 6-31 b. Agent Staff performing Front-line Functions 1- 4. These district managers, administrators or generalist staff **(what ever title you want to give them)** performed the duties outlined in the HUD handbook and did meet the requirements for prorating their salaries. Their travel expenses are addressed on page 6-30 Figure 6-2 fifth box right column of Cost Paid from Project Account. They turn in a schedule as to the tasks they performed at the site and their salaries are calculated in accordance with figure 6-2 and paragraph 6.38 of the HUD handbook 4381.5 REV – 2

As for the ineligible salary of the administrator exceeded the accrual salary paid to the administrator by grant funds during the grant period, we disagree with that as well. Due to the fact that the administrator had a dual role, the administrator was paid the allotted amount from grants and the excess amount came from the prorated amount to the property for the front-line duties that were performed at the site that had nothing to do with the grant. We met with HUD to make sure it would be ok before we did it, due to the fact we could not find another administrator to do the job.

United charged \$126,893 of an owner's salary as accounting cost to the project.

Response: United disagrees with this finding. The Minority Owner salary was not charged as accounting cost it is accounting cost. Your statement would imply that the Minority Owner doesn't do the accounting work for the properties and just classified his salary way that to skim money from the properties. This is incorrect. The Minority Owner in accordance with the HUD handbook page 6-30 figure 6-2 right column first box performs that task outlined in this section. Prorated cost on a per unit basis for centralized accounting systems, including hardware, software and technical support. Agents can be reimbursed for the prorated cost to the project of personnel providing property-specific accounting and computer services. The cost for such services provided by the agent may not exceed the cost of procuring comparable services from an independent vendor. Each year, the agent must determine these cost are at or below the market and maintain such

evidence on-site. This was done by the Minority Owner and as a whole the properties have shown a financial benefited above the average for accounting in comparison to the average as published.

When you break this charge of \$126,893 down over the 41 month period the audit covered, it comes to \$3,094.95 a month prorated into the original eight properties is \$386.86 a month, per property, and prorated over all twelve properties is \$257.91 a month per property. Where can you find an accounting firm or just an accountant to do all the necessary accounting work that has to be performed at that price?

United officials paid \$28,938 from project-operating funds on a second mortgage.
Response: United doesn't disagree with this finding. United did make the payments on the second mortgage, only because United was instructed to do so by the HUD Asset Manager Mr. David Farmer.

Arkansas Development Finance Authority (ADFA) claimed that their second mortgage was in default and if the payments were not made they were going to start foreclosure processing on the property. We made several attempts to explain to ADFA that the note requires the payments to be made from surplus cash. Just like in the case of your office, no one at ADFA was listening to us, they had already formulated opinion and nothing else matter. So we instructed them to contact Mr. David Farmer with Little Rock HUD office, and let him know what ADFA planned to do. After they spoke, we received instructions from Mr. Farmer to start making the payments on the note until the issues was resolved.

This payment did not benefit United in anyway. We did what we were instructed to. This was confirmed by the Auditors Jeffery, Phillips, Mosley, & Scott while doing fieldwork for the annual audits. Also it was our attorney who corrected this problem with ADFA when they met with the ADFA attorney.

United owes two projects \$2,940 resulting from duplicate payments to a contractor and a loan to a project manager.
Response: United doesn't disagree with this finding. United will reimburse those properties.

United used project funds to pay unsupported purchase totaling \$54,213
Response: United disagrees with this finding. We had the documents to support this claim but the auditor stated it was not to their satisfaction.

Recommendations of the OIG.

We feel that the recommendations are unfairly written and were evaluated from a perception of guilt and should be viewed in that manner. All those expenditures except \$2,940 were not only eligible but were of sound mind a good judgment and saved the properties money.

Our management of these properties saved these properties more than \$300,000 over the 41 month period of the OIG audit that was never taken into account. For example if United would have paid the going rates for personnel, material, labor, and accounting we would have never accomplished what we have at these sites nor would we have been able to maintain payments of those service with the income the properties were generating at the time we received them.

These saving can be seen in the over all improvement of the physical and financial condition of the properties. These were properties that were troubled or on their way to becoming troubled physically or financially.

We have deferred our management fee in some cases, and have got more done for less at these properties. We started one of the best neighborhood network centers in the state, we were the first to go through the mark to market program and all of the properties have a better REAC score than they had before we started managing them. In most cases United is the only responsible party for the properties not the owners.

We have not done anything to violate our regulatory agreement with criminal intent or personal gain. We believe that an honest and fair evaluation of our company would have shown this to be true.