



Issue Date	May 26, 2005
Audit Report Number	2005-FW-1010

TO: Frank L. Davis
General Deputy Assistant Secretary for Housing, H

FROM: Frank E. Baca
Regional Inspector General for Audit, 6AGA

SUBJECT: Broad Street Mortgage Company, a Subsidiary of Fieldstone Mortgage Company, San Antonio, Texas, Approved Overinsured Loans

HIGHLIGHTS

What We Audited and Why

We audited Broad Street Mortgage Company's (Broad Street) San Antonio, Texas, branch office because of an unusually high loan default rate and as part of our 2004 Annual Audit Plan. Our objective was to determine whether Broad Street followed U.S. Department of Housing and Urban Development (HUD) loan origination requirements for the 30 loans selected for review.

What We Found

Broad Street did not follow HUD loan origination requirements for minimum investment in approving 24 of the 26 loans that involved nonprofit gifts. The lender and the sellers used a gift program to circumvent the minimum investment requirements.¹ The sellers marked up the sales prices of the homes and increased the sales contracts to cover their contribution to nonprofit downpayment assistance programs. Broad Street then approved the mortgages based on the marked up prices and questionable appraised values. This increased the borrowers' homeownership costs and risk of default, as well as HUD's risk of insurance loss. (Finding 1)

¹ Title 24, Code of Federal Regulations, 203.19.

Broad Street's quality control plan needed improvement and was not fully implemented. Broad Street stated it was behind in completing quality control reviews of delinquent loans because staff was auditing other loans in addition to those that defaulted in the first 6 months of the loan term. (Finding 2)

What We Recommend

We recommend that you require Broad Street to indemnify HUD for 24 loans, reimburse the insurance fund for any of the loans reviewed that have been foreclosed, and amend and fully implement its quality control plan.

For each recommendation without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-3. Please furnish us copies of any correspondence or directives issued because of the audit.

Auditee's Response

We requested a response from the lender on February 28, 2005, and received its written response on April 12, 2005. The lender generally disagreed with our findings.

The complete text of the auditee's response, along with our evaluation of that response, can be found in Appendix C of this report.

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BACKGROUND AND OBJECTIVES

The National Housing Act, Section 203(b)(1), authorizes the U.S. Department of Housing and Urban Development (Department or HUD) to provide mortgage insurance for single-family homes. The Department must approve a mortgage company that originates Federal Housing Administration-insured loans. Participating mortgage companies must follow the National Housing Act and Department instructions when originating Federal Housing Administration-insured loans. Mortgage companies that do not follow the requirements are subject to administrative sanctions.

We audited a branch of Broad Street Mortgage Company (Broad Street), approved to originate Federal Housing Administration mortgage loans under the Single-Family Direct Endorsement program. Fieldstone Mortgage Company does business as Broad Street Mortgage Company in San Antonio, TX. The branch, mortgagee identification number 7892800303, was located at 6243 IH 410, Suite 205. The Department approved this branch to originate Federal Housing Administration-insured loans on December 23, 1999. Based on information contained in HUD's Neighborhood Watch System, Broad Street originated 519 Federal Housing Administration loans between April 1, 2002, and March 31, 2004. Of these 519 loans, 62 (11.9 percent) were in default or claim status as of June 1, 2004. The Department notified Broad Street in August 2004 that the branch's approval would be terminated due to an unusually high default rate. Broad Street elected to voluntarily close the branch.

Our audit objective was to determine whether Broad Street followed the Department's loan origination requirements for the 30 insured loans reviewed.

RESULTS OF AUDIT

Finding 1: Broad Street Originated Overinsured Loans, Putting Borrowers and HUD at Risk

Broad Street originated 24 of 26 loans involving nonprofit gifts, totaling more than \$2.3 million, in violation of HUD's minimum investment requirements. Broad Street officials disregarded or misinterpreted HUD requirements. Broad Street allowed the sellers to markup the sales prices to cover their contributions to nonprofit downpayment providers. Broad Street approved the loans based on the inflated sales prices. This increased the borrowers' homeownership costs and default risk, as well as HUD's risk of insurance loss.

Minimum Investment Not Made

HUD requires the statutory minimum investment or downpayment of 3 percent of the acquisition cost.² The maximum loan amount is calculated based on the lesser of the sales price or appraised value. For 24 of 26 loans we reviewed that involved nonprofit gifts, Broad Street violated HUD's minimum investment requirement. Broad Street requested nonprofit entities that operate downpayment assistance programs to provide down payment gifts to borrowers. The nonprofits required the sellers to reimburse them from the sellers proceeds for the amounts of the gifts plus service fees. Broad Street allowed the sellers to increase their prices to cover their contributions to the nonprofit down payment providers. Broad Street used the increased sales prices to calculate the mortgage amounts. This resulted in the loan amounts involving downpayment assistance being higher than loan amounts not involving downpayment assistance. Broad Street financed the gift and fee amounts as part of the mortgage.

HUD requires that a gift have no expected or implied repayment by the borrower. There were no true gifts in these loan transactions. Broad Street based the mortgage on the sales prices after the "gifts" and fees were added to the prices offered to the general public. As a consequence, the "gifts" and fees were financed and subject to repayment with interest by the borrower. In the transactions we examined, the nonprofits merely transferred funds from the seller to the borrower for a fee.

Examples of "gift" transactions

Case 495-6704874. To illustrate a typical transaction, the following table compares amounts used to calculate the maximum loan based on the sales prices with and without the gift included. Broad Street calculated the mortgage based on the sales price with the gift included. Broad Street's practice of calculating the

² Title 24, Code of Federal Regulations, 203.19.

mortgage based on sales prices with gifts included resulted in an overinsured loan, with increased costs and risk to the borrower. In this case, we estimated the borrower's monthly mortgage payment increased from about \$875 to \$941 (\$66) and the interest cost over the 240-month life of the mortgage increased from \$90,328 to \$97,108 (\$6,780) or by 7.5 percent.

	Using Broad Street's Gift Program	Using Original Sales Price Offered to General Public
Original contract sales price	\$122,519	\$122,519
"Gift" (A) \$8,580 + the fee \$500)	<u>9,080</u>	<u>--0--</u>
Contract sales price (HUD-1) (price + gift)	\$131,599	\$122,519
Settlement charges to the borrower HUD-1)	<u>6,477</u>	<u>6,477</u>
Gross due from borrower (HUD-1)	\$138,076	\$128,996
Insured loan (based on acquisition cost)	<u>ⓑ\$128,752</u>	<u>ⓒ\$119,762</u>
Minimum investment from borrower	<u>\$ 9,324</u>	<u>\$ 9,234</u>
Earnest money	2,200	2,200
"Gift"	<u>ⓐ 8,580</u>	<u>--0--</u>
Funds attributable to borrower	<u>\$10,780</u>	<u>\$ 2,200</u>
Amounts paid on behalf of borrower (HUD-1)	<u>\$139,532</u>	<u>\$121,962</u>
(Due to)/ due from borrower (HUD-1)	<u>(\$1,456)</u>	<u>\$7,034</u>
Note:		
The borrower needed over \$9,000 to close but only had about \$2,500.		
The mortgage is overinsured by \$8,990 (ⓑ\$128,752 - ⓒ119,762 = \$8,990).		

In many cases, the sellers had price lists for new homes that showed the prices offered to the general public. Also, in many cases, the original sales prices were shown on the original sales contract, but the sales prices were increased on revised sales contracts which showed the increases were the result of the sellers' contributions to the "buyer's fund." The HUD-1 settlement statements show the amounts of the "gifts" being credited to the buyers and the amounts of the "gifts" plus the fees being deducted from the sellers' proceeds.

Case 495-6609733. This case involved an \$8,500 “gift” where the borrowers were aware that the loan was going to be increased by the assistance they received. In our interview, the borrowers told us they first asked the homebuilder for help with the closing costs, and the homebuilder directed them to Broad Street. The Broad Street representative told them funds were available, that the loan would be increased by the amount of the assistance, and they would be repaying the assistance through their mortgage payments. They said they did not know the assistance was supposed to be a gift. They signed the gift letter at closing. No one went over the gift letter. They did not know it said the borrowers were under no obligation to repay the gift or that no portion of the gift came from any person or entity with an interest in the sale of the property, including the seller, real estate agent or broker, builder, loan officer or any entity associated with them. The borrowers said they knew the seller helped with the closing costs. They pointed out that paragraph 9c in the sales contract states, “The seller to pay up to \$8,500 towards the Buyers Fund.”

The following sections of actual documents from the loan files are representative of the cases we took exception to. The builder/seller’s “option selection sheet” shows the total sales price of \$112,495 was made up of the base price of the home (\$101,900) with options (\$550) and the financed closing costs (\$10,045).

Option Selection Sheet		
Water's Edge		
		Plan #, Elevation, Garage <u>1681BR</u>
<input type="checkbox"/>	Stub Plumbing in Garage.....	450.00
<input type="checkbox"/>	Cabinet Upgrades.....	See Chart
<input type="checkbox"/>	Cabinets in Utility Room.....	500.00
<input type="checkbox"/>	Commode Linen Cabinet per Bath.....	350.00
<input type="checkbox"/>	Medicine Cabinet per Bath.....	150.00
<input type="checkbox"/>	Double Bowl in Master (per plan).....	300.00
<input type="checkbox"/>	Whirlpool Tub.....	1,500.00
<input type="checkbox"/>	Separate Shower (per plan).....	1,350.00
<input type="checkbox"/>	Raised Panel Doors (Interior).....	750.00
<input type="checkbox"/>	Interior French Doors.....	600.00
<input type="checkbox"/>	Enamel Painted Walls.....	0.35 per SQF
<input type="checkbox"/>	Freezer Plug.....	150.00
<input type="checkbox"/>	Extra Phone (#) or Cable (#).....	75.00 per location (mark handout)
<input type="checkbox"/>	Ceiling Fan per Location.....	150.00
<input type="checkbox"/>	1 Double Flood Light (w/ switch).....	100.00
		Base Price \$ <u>101,900</u>
		Financed \$ <u>550</u>
		Options
		Financed \$ <u>10,045</u>
		Closing Costs
		Total Sales \$ <u>112,495</u>
		Price

The gift letter shows a gift amount of \$8,187.20.

After AmeriDream, Inc., receives the required paperwork from your Lender, we will transfer your gift to your Settlement/Closing Agent on the day of your scheduled closing. We will be providing you with a gift in the amount of \$ 8,187.20 to use toward the purchase of your home. This money comes directly from AmeriDream, Inc.'s own funds. No portion of this gift has come from any person or entity with an interest in the sale of the property, including the seller, real estate agent or broker, builder, loan officer or any entity associated with them.

The HUD-1 settlement statement shows an “Ameridream credit to the buyer” of \$8,187.20 and a reduction in the seller’s proceeds of \$8,512.20 (\$8,187.20 plus \$325) for “credit plus service fee to Ameridream.” Also, the HUD-1 settlement statement shows an unexplained lender credit of \$3,601.11 from Fieldstone Mortgage Company. After only paying the earnest money of \$500 to the builder, the borrower received \$925.45 back at closing.

A. Settlement Statement		B. Type of Loan	
First American Title Insurance Company Settlement Statement		1-5. Loan Type Conv. Unins.	
		6. File Number TX03-236456-SA90	
		7. Loan Number 7329014162	
		8. Mortgage Insurance Case Number 495-8609733-703	
C. Note: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown, items marked "(POC)" were paid outside this closing; they are shown here for informational purposes and are not included in the totals. Amounts shown as PBL were retained by lender and deducted from the loan proceeds prior to receipt by settlement agent.			
J. Summary of Borrower's Transaction		K. Summary of Seller's Transaction	
100. Gross Amount Due From Borrower		400. Gross Amount Due To Seller	
101. Contract Sales Price	112,495.00	401. Contract Sales Price	112,495.00
102. Personal Property		402. Personal Property	
201. Deposit or earnest money		501. Excess Deposit (See instructions)	
202. Principal amount of new loan(s)	105,915.00	502. Settlement charges (line 1400)	10,586.18
203. Existing loan(s) taken subject		503. Existing loan(s) taken subject	
204. AmeriStream credit to Buyer	8,187.20	504. Payoff of first mortgage loan to Bank One	101,113.09
205. Earnest Money	500.00	505. Payoff of second mortgage loan	
206. Lender Credit from Fieldstone Mortgage Company	3,601.11	506. Earnest Money	500.00
1303. Tax Certificate to Data Trace			38.28
1304. Credit plus Service fee to AmeriStream			8,512.20
1305. Home Warranty to Home of Texas			175.70
220. Total Paid By/For Borrower	118,499.04	520. Total Reduction Amount Due Seller	112,495.00
300. Cash At Settlement From/To Borrower		600. Cash At Settlement To/From Seller	
301. Gross amount due from Borrower (line 120)	117,573.59	601. Gross amount due to Seller (line 420)	112,495.00
302. Less amounts paid by/for Borrower (line 220)	118,499.04	602. Less reductions in amounts due to Seller (line 520)	112,495.00
303. Cash (From) (X To) Borrower	925.45	603. Cash (To) (From) Seller	

The HUD-1 Settlement Statement which I have prepared is a true and accurate account of this transaction. I have caused or will cause the funds to be

Case 495-6536800. Two sales contracts were prepared. The borrowers showed us their copy of the first sales contract. The price of the home was \$82,900, which was consistent with the homebuilders price list. This contract stipulated that the seller would pay for the title policy if and only if the buyer used the seller's preferred lender. The other sales contract showed the price of the home to be \$88,425 and that the seller was to pay the owner's title insurance provided the buyer used the seller's preferred lender and that the seller was to pay up to \$7,183 toward the Buyer's Fund. The borrowers told us they were not aware they were receiving a gift and did not know about the increase in the sales price until after the closing when they looked at the paperwork. They told us they wondered why the price went up from \$82,900 to \$88,425.

First Contract:

3. CONTRACT SALES PRICE:

- A. Cash portion of Sales Price Payable by Buyer at closing \$ 0
- B. Sum of all financing described below (excluding any FHA Mortgage Insurance Premium [MIP], VA funding fee, or Private Mortgage Insurance Premium [PMI]) \$82,900
- C. Sales Price (hereinafter Sales Price)(Sum A Ind B) \$82,900

9. SETTLEMENT AND OTHER EXPENSES:

- A. The following expenses must be paid at, or prior to, closing:
 - (1) Loan appraisal fees must be paid by buyer.

Any exceptions to the above:

SELLER TO PAY FOR TITLE POLICY IF AND ONLY IF BUYER USES PREFERRED LENDER.

Second Contract:

3. CONTRACT SALES PRICE:

- A. Cash portion of Sales Price payable by Buyer at closing \$ 4,425.00
- B. Sum of all financing described below (excluding any FHA Mortgage Insurance Premium (MIP), VA Funding fee, or Private Mortgage Insurance Premium (PMI)) \$ 84,000.00
- C. Sales Price (hereinafter Sales Price)(Sum A and B) \$ 88,425.00

9. SETTLEMENT AND OTHER EXPENSES:

A. The following expenses must be paid at, or prior to, closing:

- (1) Loan appraisal fee will be paid by buyer

Any exceptions to the above:

SELLER TO PAY OWNER'S TITLE INSURANCE PROVIDED BUYER USES SELLER'S PREFERRED LENDER. SELLER TO PAY UP TO \$7183.00 TOWARDS BUYER'S FUND.

Homebuilder's Price List:

PLAN	LAYOUT	FEATURES	PRICE
TWO STORY PLANS			
1218	3-2-1	1 Living, 1 Dining	\$82,900
1409	3-2.5-1	1 Living, 1 Dining	\$82,900

The HUD-1 settlement statement shows a sales price of \$88,425, gift equity from Ameridream of \$6,858, and the seller's reimbursement of gift equity to buyers—Ameridream—of \$7,183. The borrowers paid an additional \$73.05, and the seller neither paid nor received any funds at closing.

I. SUMMARY OF BORROWER'S TRANSACTIONS		K. SUMMARY OF SELLER'S TRANSACTIONS	
00. GROSS AMOUNT DUE FROM BORROWER		400. GROSS AMOUNT DUE TO SELLER	
01. Total Consideration	88,425.00	401. Total Consideration	88,425.00
204. Gift equity from Ameridream	6,858.00		

	PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT
1307. Reimbursement of Gift equity to buyers - Ameridream		\$7,183.00

		D. CASH AT SETTLEMENT FROM/TO SELLER	
		500. CASH AT SETTLEMENT FROM/TO SELLER	
		501. Gross amount due to seller (line 420)	88,425.00
	92,820.60	502. Less reduction in amount due seller (in 520)	88,425.00
	73.05	503. CASH (XX FROM) (TO) SELLER	0.00

Case 495-6575118. A Broad Street representative sent the e-mail message below to the builder's sales agent and provided the new sales price of the home based on the "gift." The original sales price in this case was \$145,900 on the sales contract,

dated January 26, 2003. The sales price was \$159,000 on the sales contract, dated April 16, 2003. The following message from the lender explains the difference.

Norm Dick

From: Frank Pattison [FPattison@BroadStreetMortgage.com]
Sent: Tuesday, April 15, 2003 7:27 PM
To: Koncsol, Janice
Cc: NORM DICK
Subject: [REDACTED] 192127 Preakness Lane

New Sales Price is 159,000
Old sales Price is 145,800
Gap is 13,100
The buyer to receive 10,475 gift from the buyers fund should be placed in the special provisions paragraph.
10475*1.25=13093

Recommendation

We recommend that the General Deputy Assistant Secretary for Housing:

- 1A. Require Broad Street to indemnify HUD for the 24 loans (listed in Appendix B) that did not meet Federal Housing Administration minimum investment requirements and reimburse the insurance fund for any of the loans that have been foreclosed.

Finding 2: The Quality Control Plan Needed Improvements and Was Not Fully Implemented

Broad Street’s quality control plan needed improvements and to be fully implemented. The lender did not require the detection and reporting of serious violations to HUD. The lender had not done reviews of defaulted loans with six or fewer payments. Broad Street did not include sufficient details for appraisal reviews in the plan. Broad Street officials overlooked certain HUD requirements. Without an effective quality control plan, Broad Street allowed violations of HUD requirements to increase HUD’s losses through defaults and foreclosures.

Detecting and Reporting Violations

Mortgage companies must identify patterns of early loan defaults. Loan defaults involving participants in the process (appraisers, loan officers, processors, underwriters, etc.) who have been associated with problems must be included in review samples. Documents contained in the loan file should be checked for sufficiency and subjected to written verification. Items that must be verified during the quality control review include but are not limited to the mortgagor’s income, deposits, gift letters, alternate credit sources, and other sources of funds. Sources of funds must be acceptable as well as verified. If serious problems are found, the mortgage company must report violations to the Director of the Quality Assurance Division in the HUD Homeownership Center having jurisdiction (determined by the State where the property is located).

Broad Street did not meet HUD’s requirements for detecting and reporting serious violations. It did not select loans involving early loan defaults timely. As a result, it lacked assurance that serious violations were detected and reported.

Defaulted Loans with Six or Fewer Payments

Broad Street’s quality control personnel did not review 11 of 12 loans we reviewed that defaulted early, within the first six payments. A Broad Street official said the lender was behind in completing delinquent loan audits because “it was just a matter of getting everything done.”

Appraisal Review

The mortgage company’s appraisal review must include a conclusion of the overall quality, including a review of the appraisal data, the validity of the comparables, the value conclusion (“as repaired” to meet safety and soundness), and any changes made by the underwriter. Mortgage companies should select

loans for field reviews based on factors found during desk reviews, including excessive distances from comparables to the subject property, inappropriate comparables, unsupported adjustments, excessive or insufficient repairs required to meet minimum safety and soundness requirements, and an increase in value of the property of more than 20 percent within 12 months of a previous sale. If serious deficiencies or patterns are uncovered, the mortgage company must report these to the Quality Assurance Division in the HUD Homeownership Center having jurisdiction.

Broad Street's plan did not contain sufficient detail on appraisal quality reviews. As a result, Broad Street has no assurance of appraisal quality.

Recommendations

We recommend that the General Deputy Assistant Secretary for Housing:

- 2A. Ensure Broad Street's quality control plan conforms to HUD requirements and is fully implemented.
- 2B. Require Broad Street to establish controls to ensure timely reviews of loans that default with six or fewer payments.

SCOPE AND METHODOLOGY

We divided the objective into mortgage credit analysis areas to determine whether the borrower had available assets to close the loan, was credit worthy, and had adequate and stable effective income. We also determined, with the help of an Office of Inspector General (OIG) appraiser, that our initial sample was fairly valued. We initially selected 16 loans from a list of 62 of Broad Street's defaulted in HUD's Neighborhood Watch System³ from April 1, 2002, through March 31, 2004. We selected another 26 defaulted loans because they involved nonprofit "gifts." The records center sent us two more loan files we did not request, and we added them to our sample to consider for review, for a total of 44 loans. Due to time constraints, we reviewed 30 of the 44 loans, including all 26 of the loans that involved nonprofit gifts. We reviewed relevant Federal regulations, HUD handbooks, Broad Street's quality control plan, and Federal Housing Administration and the mortgage company's loan origination files. Our review of the loan origination files included:

- Collecting certain data to determine whether a pattern of defaults existed;
- Comparing the quality control plan to HUD requirements;
- Examining loan documents for inconsistent and derogatory information;
- Comparing the final application with the preliminary application, verifications of deposit and employment, credit reports, and any other relevant documentation available for inconsistency;
- Examining the appraisal and comparing the subject property and details with the comparable properties and Bexar County Appraisal District information and values for inconsistency;
- Verifying the deposit and employment information;
- Interviewing the borrowers; and
- Reviewing the title company closings.

We interviewed HUD Quality Assurance Division staff and held an entrance conference with Broad Street's executives on May 26, 2004. We performed our fieldwork at the Broad Street office and HUD's office in San Antonio, Texas, from May 26, 2004, to January 11, 2005. We performed our review in accordance with generally accepted government auditing standards.

³ We did not perform procedures to assess the data contained in HUD's Neighborhood Watch System. The audit did not include any other computer-generated data.

INTERNAL CONTROLS

Internal control is an integral component of an organization's management that provides reasonable assurance that the following objectives are being achieved:

- Effectiveness and efficiency of operations;
- Reliability of financial reporting; and
- Compliance with applicable laws and regulations.

Internal controls relate to management's plans, methods, and procedures used to meet its mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined the following internal controls were relevant to our audit objectives:

- Requirements for loan originations and
- The lender's quality control plan.

We assessed the relevant controls identified above.

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

Significant Weaknesses

Based on our review, we believe the following are significant weaknesses:

- Broad Street originated overinsured loans, putting borrowers and HUD at risk (Finding 1) and
- The lender's quality control plan needed improvements and was not fully implemented (Finding 2).

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS AND FUNDS TO BE PUT TO BETTER USE

Recommendation Number	Funds To Be Put to Better Use ¹
1A	\$2,324,196

^{1/} “Funds to be put to better use” are quantifiable savings that are anticipated to occur if an OIG recommendation is implemented, resulting in reduced expenditures at a later time for the activities in question. This includes costs not incurred, deobligation of funds, withdrawal of interest, reductions in outlays, avoidance of unnecessary expenditures, loans and guarantees not made, and other savings.

Appendix B

Broad Street Mortgage Company Schedule of Loans that Did Not Meet Minimum Investment Requirements

Case Number	Mortgagee Number	Mortgage Amount	Sales Price to the Public	Sales Price Under Gift Program	Difference
495-6425888	7329013162	\$69,101	\$64,900	\$74,000	\$8,100
495-6609733	7329014162	105,915	\$101,900	\$112,495	\$10,045
495-6704874	7329014746	128,752	\$122,519	\$131,599	\$9,080
495-6623192	7329014128	75,810	\$71,000	\$77,000	\$6,000
495-6563001	7329013958	60,845	\$57,000	\$61,800	\$4,800
495-6153000	7329011974	78,561	\$78,800	\$86,000	\$7,200
495-6536800	7329012954	85,260	\$82,900	\$88,425	\$5,525
495-6530294	7329013528	126,012	\$121,900	\$128,000	\$6,100
495-6333860	7329012704	107,184	\$106,185	\$113,585	\$7,400
495-6735938	7329014647	125,894	\$120,563	\$130,563	\$10,000
495-6575118	7329013536	153,315	\$145,900	\$159,000	\$13,100
495-6387750	7329012948	134,436	\$129,581	\$136,581	\$7,000
493-7270669	7329012990	99,799	\$104,995	\$109,261	\$4,266
495-6136162	7329011827	82,925	\$82,000	\$86,000	\$4,000
495-6144826	7329011947	96,425	\$93,400	\$99,400	\$6,000
495-6147629	7329013967	77,698	\$72,600	\$85,100	\$12,500
495-6158507	7329011704	84,651	\$80,005	\$86,000	\$5,995
495-6192256	7329012144	125,098	\$120,249	\$129,749	\$9,500
495-6244162	7329012335	84,042	\$82,000	\$92,000	\$10,000
495-6289869	7329012326	81,925	\$78,500	\$86,500	\$8,000
495-6321261	7329012696	93,024	\$93,000	\$98,000	\$5,000
495-6604430	7329013162	68,327	\$65,000	\$69,400	\$4,400
495-6363427	7329012875	90,639	\$86,500	\$94,000	\$7,500
495-6173527	7329013340	88,558	\$88,950	\$96,950	\$8,000

Total for Indemnification \$2,324,196

APPENDIX C

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

 **BROAD STREET**
MORTGAGE CO.
Member FDIC

April 12, 2005

BY HAND DELIVERY AND OVERNIGHT MAIL

Mr. James D. McKay
Acting Regional Inspector General For Audit
U.S. Department of Housing and Urban Development
819 Taylor Street, Room 13A09
Fort Worth, Texas 76102

Re: Broad Street Mortgage Co.
A division of Fieldstone Mortgage Company
February 2005 Draft Audit Report

Dear Mr. McKay:

This is in reply to your letter of February 28, 2005, to Broad Street Mortgage Co. ("Broad Street" or the "Company") forwarding a copy of a draft audit report (the "Draft Audit Report") prepared by your office regarding the Company. The Draft Audit Report reviews the practices of Broad Street in originating HUD-FHA insured mortgages during the period from April 1, 2002 through March 31, 2004. This letter provides the formal comments of the Company on the Draft Audit Report.

The Company appreciates the opportunity to comment on the Draft Audit Report. Respectfully, however, Broad Street, as discussed below, in important ways differs with certain key findings and recommendations in the Draft Audit Report.

We address below each of the findings in the Draft Audit Report.

6243 IH-10 West Suite 1000 San Antonio, TX 78201 Phone: 210.308.8555 Fax 210.308.8553

Mr. James D. McKay
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April 12, 2005

OIG Finding #1: High Risk and Overinsured Loans For Unqualified Borrowers

The Office of Inspector General (“OIG”) indicates that the company originated 27 of 30 loans in violation of HUD’s minimum investment requirements and/or for borrowers with inadequate credit. The OIG indicates that Broad Street allowed the sellers to provide all or part of the borrower’s minimum investment and to mark up the sales prices and contract amounts to cover the “gift”. The finding indicates that Broad Street approved loans with inflated sales prices and questionable appraisals. Additionally, the OIG indicates that Broad Street increased the chance of nonpayment by approving borrowers with poor credit. The OIG indicates that Broad Street officials disregarded or misinterpreted HUD requirements, and, as a result, the loans were both overinsured and at high risk of default.

Broad Street’s Comments

The Company respectfully disagrees with the OIG’s conclusions; particularly, with those relating to gift funds provided to borrowers by nonprofit organizations to meet their minimum investment requirements through a downpayment assistance program. The Company respectfully submits that the OIG’s finding that such gift funds represent a violation of HUD-FHA requirements is unsupported, wholly inappropriate, and should be removed. This finding is discussed in more detail below.

Minimum Investment Not Made:

Through the downpayment assistance programs cited by the OIG in this finding, a nonprofit organization provided gift funds to assist potential homebuyers that did not have the necessary downpayment to qualify for homeownership. This is expressly permitted by HUD requirements, as set forth in HUD Handbook 4155.1 Rev-5, Chapter 2, Section 3, Paragraph 2-10C. The nonprofit organization provided downpayment funds for the borrower in the form of a

Comment 1

Comment 1

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gift, and then received from the seller a service fee and/or contribution. In some instances, the home sellers increased the sales price to cover the fee and/or contribution that they paid to the nonprofit organization. Importantly, however, in each instance the appraisal supports the value of the property. Downpayment assistance programs administered by nonprofit organizations are acceptable to HUD and further HUD's goal of providing homeownership opportunities to low and moderate income families.

Comment 1

The downpayment assistance programs under which nonprofit organizations provided gift funds to the borrowers to help them meet their required minimum investment with respect to the loans cited in this finding generally involved the following process:

Comment 1

- The borrower completes an application for downpayment assistance from the nonprofit organization.
- The seller (or builder) enters into an agreement with the nonprofit organization to participate in the program and to pay a service fee (or contribution) to the nonprofit organization.
- Prior to closing, the nonprofit organization wires the downpayment assistance funds to the closing agent.
- At the closing, the closing agent disburses the service fee (or contribution) to the nonprofit organization from the seller's proceeds.

Comment 1

Broad Street respectfully submits that the gift funds provided by the nonprofit organization through the downpayment assistance program described herein are permitted by HUD and do not violate any HUD-FHA requirement. The OIG characterizes such gift funds as being provided by the seller, and thus, representing a seller concession, requiring a reduction in the sales price and/or appraised value of the property.

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Comment 1

The OIG's characterization is simply incorrect based on HUD's requirements set forth in HUD Handbook 4155.1 Rev-5, Chapter 1, Section 2, Paragraph 1-7A and Section 3, Paragraph 2-10C which do not include downpayment assistance programs as seller concessions or contributions, and the fact that the downpayment assistance gift funds were provided by nonprofit organizations and not the seller.

Comment 1

Broad Street is aware that the OIG conducted a nationwide audit of downpayment assistance programs (the "nationwide audit") and issued a report, Audit Case No. 2000-SE-121-0001, dated March 31, 2000. One of the nonprofit organizations that the OIG reviewed was the Nehemiah Progressive Housing Development Corporation ("Nehemiah") which was expressly approved by HUD on April 3, 1998. It should be noted that both HUD's Deputy Assistant Secretary for Single Family Housing and HUD's Office of General Counsel concluded that this program complied with HUD's regulations and guidance regarding the source of funds for the borrower's downpayment.

(Page 3 of the nationwide audit report.)

Comment 1

On June 8, 1998, the Deputy Assistant Secretary for Single Family Housing issued a memorandum to all Single Family Homeownership Center Directors and Single Family Directors that Nehemiah's program was not in conflict with FHA's present guidelines for downpayment assistance and complied with all statutes and regulations. The memorandum went on to state that other programs similarly structured would also be in compliance with HUD requirements and approval to operate should not be denied based on their downpayment assistance process.

(Pages 3 and 4 of the nationwide audit report.)

Broad Street respectfully submits that HUD has never rescinded its explicit approval of the downpayment assistance program that it approved for Nehemiah and, importantly, that it also

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approved for similarly structured programs.

Importantly, the downpayment assistance programs administered by the nonprofit organizations cited by the OIG in its review of Broad Street represent programs similarly structured to the Nehemiah program. Respectfully, there is no violation of HUD-FHA requirements.

Further, in those instances where a seller increases the sale price of the home and makes a contribution or pays a service fee to a nonprofit organization, the Company respectfully submits that there is no violation of HUD-FHA requirements.

In its nationwide audit, the OIG states that on September 14, 1999, HUD issued a proposed rule for comment "... to establish specific standards regarding the use of gifts by charitable and other organizations as a source of the mortgagor's investment in the mortgaged property." The comment period ran until November 15, 1999. HUD has not yet issued a final rule.

(Page 31 of the nationwide audit report.)

According to the proposed rule:

FHA has several concerns with these programs. First, borrowers with limited cash investments into the sale transactions represent significantly greater risk to the insurance fund... FHA's second concern is that the sales price is often increased so that the seller's net proceeds are not diminished. This increases FHA's risk that it will not recover the full amount owed if forced to acquire and resell a home purchased by a participating borrower who often defaults on the loan...

Comment 1

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(Page 32 of the nationwide audit report.)

HUD withdrew this proposed rule from its rulemaking process on January 12, 2001, citing as the reason for doing so the overwhelming majority of negative public comments it received opposing the proposed rule (Federal Register, January 12, 2001, volume 66, number 9, pages 2851-2852).

Comment 1

Since the time that HUD proposed the rule over five years ago, and withdrew it, HUD has not issued any written guideline that prohibits this practice. Accordingly, there is no prohibition by HUD against an increase in the sales price by the seller, if supported by the appraisal, in connection with a downpayment assistance program provided by a nonprofit organization.

Respectfully, Broad Street did not violate any HUD requirement.

Appraisals Not Properly Adjusted:

Comment 2

The OIG indicates that the "financing of the downpayment" artificially raised the value of the houses and increased the ratio of the loan amount to the actual value of the property. The OIG indicates that home sales with the sales prices that were increased by the gift amounts were later used as comparables. The OIG indicates further that Broad Street should have reduced the sales prices and/or appraised values (whichever is less) of the Federal Housing Administration-insured properties by the "seller's gift" before calculating the maximum mortgage amounts. The OIG indicates that for 25 of the 30 loans, Broad Street increased the Department's risk of nonpayment by raising the loan to value ratio.

Broad Street respectfully disagrees with this finding.

First, the finding incorrectly states that the gift funds in these transactions were provided

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Comment 2

by the seller. As explained elsewhere in this response, the gift funds were provided by a nonprofit organization under a downpayment assistance program approved by HUD and in compliance with HUD guidelines. The seller paid a service fee and/or made a contribution to the nonprofit organization as expressly permitted by HUD.

Second, the OIG incorrectly characterizes the gift funds in these transactions as an "inducement to purchase". Broad Street respectfully submits that the gift funds in these transactions were properly provided by a nonprofit organization through a downpayment assistance program that met HUD guidelines. They are not either a seller contribution or an "inducement to purchase" as set forth in HUD Handbook 4155.1 Rev-5, Chapter 1, Section 1, Paragraph 1-7A and 1-7B.

Respectfully, Broad Street disagrees with the OIG's conclusion that the sales price and/or appraised value should have been reduced by the amount of the gift funds from the nonprofit organization under present HUD guidelines regarding downpayment assistance programs.

Borrowers approved with poor credit:

The OIG indicates that Broad Street approved borrowers with poor credit in 27 of the 30 cases reviewed during the audit.

Respectfully, the Company submits that many of the OIG's findings are not supported or represent a misunderstanding of the facts. We respectfully disagree with many of OIG's conclusions. Broad Street has always been fully committed to strict compliance with HUD-FHA requirements and is committed to demonstrating this through our loan origination practices.

Loans cited by the OIG in this finding were underwritten by the FHA-approved Freddie Mac Loan Prospector (LP). The Company has complied diligently with HUD's guidelines regarding

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the use of an Automated Underwriting System (AUS) in connection with underwriting HUD FHA insured mortgages.

Mortgagee Letter 95-7 permitted a Lender to use an AUS in underwriting FHA insured mortgages.

Mortgagee Letter 96-34 further reiterated HUD's acceptance of the AUS underwriting process. In addition, this mortgage letter provides for varying levels of document relief and underwriting flexibility.

Mortgagee letter 96-34 states that:

"Since the issuance of ML 95-7, HUD has observed the continuing refinement and acceptance in the marketplace of various automated underwriting systems and their potential for expanding access to new borrowers, streamlining processing, and enhancing risk management. We also recognize that there are concerns about how the introduction of this technology will affect service to certain market segments, particularly those borrowers who have traditionally been underserved by the mortgage market".

"FHA has developed a process by which it would consider approval of automated underwriting systems themselves. This process will allow FHA to ensure that the use of any approved system will meet FHA's policy objectives:

- To identify and approve credit-worthy borrowers that would have been excluded from homeownership under current FHA credit guidelines;

Comment 2

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- To ensure that credit-worthy borrowers meeting existing FHA underwriting guidelines are not excluded from homeownership;
- To expand access to mortgage credit for low- and moderate-income borrowers and to prevent unlawful discrimination against borrowers protected by the Fair Housing Act and the Equal Credit Opportunity Act;
- To reduce the cost and time associated with originating FHA-insured mortgages; and
- To enhance our ability to assess risk and manage FHA's mortgage insurance fund."

FHA is committed to expanding homeownership opportunities for first-time home homebuyers, low- and moderate-income families, non-traditional borrowers, minorities, women, and those that might otherwise be denied conventional financing. "While FHA's current credit policies are flexible yet prudent, automated underwriting/risk assessment systems can be powerful tools in the expansion of homeownership while at the same time allowing lenders and mortgage insurers to proactively manage the risk inherent in all lending. Further, as FHA's paperwork reduction and other efforts have demonstrated, FHA seeks to make participation in FHA programs less costly for the lender as well as the homebuyer."

In Mortgagee letter 98-14, FHA approved Freddie Mac's Loan Prospector (LP) for use in underwriting FHA insured mortgages.

FHA clearly stated that LP is:

... "consistent with FHA's policy objectives, provided efficiencies in the underwriting process and is an effective predictor of the risk of default on FHA loans. As part of that

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approval, FHA will make a substantial number of revisions to its credit policies and reduce documentation for LP – assessed loans as described in the LP User’s Guide”

Comment 2

Further Mortgagee Letter 98-14 contains interim procedures for underwriting FHA insured mortgage loans through LP until such time as an amendment to 24 CFR 203.255 (b) (5) becomes effective. For those loans submitted for endorsement before the effective date of the revision to 24 CFR 203.255 (b) (5), a waiver will be granted. The waiver will provide that the mortgage credit portion of those loans applications receiving an "accept" risk classification from LP need not be reviewed by a DE underwriter, and the mortgage credit analysis worksheet (HUD-92900WS) will reflect a CHUMS underwriter identification number assigned to Loan Prospector for FHA loans. The lender must provide the Loan Prospector feedback certificate on all mortgages that are scored by LP and subsequently submitted to FHA for endorsement.

Importantly, Broad Street complied with the underwriting policies based on the waiver provided by the FHA in Mortgagee Letter 98-14.

Respectfully, the OIG is incorrect in its allegation that the Company did not adhere to HUD FHA credit requirements in using the LP AUS system for underwriting the loans cited in this finding. The Company properly relied upon the waiver provided by FHA.

Under these circumstances, it would be fundamentally unfair for the OIG to hold Broad Street to a higher standard than FHA set for itself in underwriting HUD-FHA insured mortgages through the LP AUS that HUD approved.

Further, Broad Street notes that in Mortgagee Letter 94-22, regarding fair lending practices, FHA explicitly states:

“...Lenders will not have to justify every requirement and practice every time they face a

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compliance examination..."

Importantly, this mortgagee letter encourages expanding homeownership opportunities to nontraditional borrowers.

Part of Broad Street's mission is to promote homeownership opportunities to qualified borrowers, including nontraditional borrowers.

In addition, and significantly, Broad Street notes that FHA has recently further eliminated documentation requirements for FHA's Total Mortgage Scorecard.

Mortgagee Letter 2005-15, dated March 30, 2005, clearly states FHA's policy to provide documentation relief for determining borrowers' credit-worthiness. Specifically:

"... Collections accounts. Similar to the instructions regarding CCCS above, collection accounts for accept/approve risk classifications trigger neither an explanation requirement nor a hypothetical monthly payment to be used in qualifying the borrowers. The presence of collection accounts in the borrower's credit history already result in lowering the credit bureau scores used in total and, thus, no further information need be provided by the borrower..."

While this mortgagee letter was not in effect at the time that these loans were originated, it clearly states HUD's policy to reduce credit requirements for collection accounts.

Significantly, Broad Street also relied upon advice provided to it by HUD staff during training sessions in 2002 and 2003 conducted by the HUD Denver and Santa Ana Homeownership Centers regarding underwriting and AUS usage.

Comment 2

Comment 2

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Broad Street was specifically advised by HUD staff to follow the LP findings as rendered and the Freddie Mac user guide for issues not addressed by the findings. For example, with respect to collection accounts, the guide states that collections are not required to be paid as a condition of the credit warranties. The Company properly relied upon the advice provided by HUD staff.

Finally, Broad Street notes that HUD published an interim rule, effective June 28, 1998, amending HUD's regulations regarding single family mortgage insurance to allow the lender to substitute an "accept" risk classification from an FHA-approved automated underwriting system (AUS) in lieu of a personal review by a Direct Endorsement underwriter of the borrower's credit and capacity to repay the mortgage.

This rule was codified in HUD's regulations at 24 C.F.R. part 200 section 203.255 (b)(5).

Policy and Procedural Changes

Further, as part of its continuing commitment to the origination of quality HUD-FHA insured mortgages, Broad Street has implemented a number of measures to strengthen its loan origination procedures.

The Company has initiated credit policy changes that include a closer underwriting review of loan applications and supporting documentation from borrowers with marginal credit during the Company's mortgage risk analysis, in accordance with HUD regulations at 24 C.F.R., Part 200, Section 203.5(c), and HUD Handbook 4155.1 Rev-5.

The Company now requires that all loans for borrowers with a credit score under 600 must have a second underwriter review and signature by the underwriting manager.

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During the first week of March 2005, the Company conducted a formal internal training session for all of its underwriters. This comprehensive training included sessions devoted to FHA Total Scorecard, the Company's underwriting policies and procedures, agency requirements, and all tools available to the underwriters to effectively perform prudent mortgage risk analysis.

Further, the Company no longer permits mortgage loans with 20 year terms unless such loans first receive an "accept" rating from the AUS as a 30 year mortgage loan. Further, a satisfactory rental verification covering the most recent 12 month period must be documented, if the borrower is a first time home buyer and if they have been a renter of property.

The Company has further strengthened its procedures for documenting the transfer of gift funds from the donor to the borrower to ensure adherence with HUD-FHA guidelines.

Also, as acknowledged by the OIG in the draft audit report, on August 31, 2004 Broad Street voluntarily closed its former San Antonio, Texas branch office and terminated the staff at that branch. The loans at issue cited in this finding were originated by that branch office.

We address below the underwriting issues cited by the OIG regarding these loans.

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General

Broad Street respectfully submits that the OIG's alleged finding that the borrowers did not meet HUD's minimum required investment with respect to these loans because a nonprofit organization provided down payment assistance funds is incorrect. This finding is addressed in detail elsewhere in this response.


7329013536
495-695118
LP ACCEPT
06-09-2003

Underwriting Deficiencies:

The lender did not adequately evaluate the borrowers' credit history. The lender did not provide adequate explanation for derogatory credit items noted on the borrowers' credit history, including accounts in collection status.

Response:

The loan received an "Accept" designation from Freddie Mac's Loan Prospector. Accordingly, per FHA and Freddie Mac if a file receives an Accept designation, the file has "Credit Warranties and Waivers" as noted on the LP feedback certificate. **Credit Warranty F0** on the feedback certificate states: "*Credit Warranty: Not required to determine that the borrower shows the willingness to pay.*" Additionally, FHA HOC in Denver and Santa Ana have hosted lender seminars in which they have provided guidance on this issue.

Comment 1

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We properly relied upon the guidance provided by HUD staff.

We are providing the following in support of the above statements:

1. Copy of pages 25 and 137 of the presentation provided by Denver HOC in August 2003.
2. Copy of page 88 of the presentation provided by the Santa Ana HOC in April 2002.
3. Page 2-5 of the HUD Handbook 4155.1 Rev 4 Chg 1.
4. Page 43 and Exercise page 3, from an LP Originator workshop.
5. Page 17 of Appendix B, Documentation Matrix.

Gift Transfer Undocumented

The lender did not document the transfer of funds from the gift donor to the borrower.

Response

Broad Street is in the process of obtaining evidence of the gift transfer from the donor to the borrower. We will provide the OIG with a copy upon our receipt.

Comment 1

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7329011704
495-6158507
LP Accept
06-27-2002

Underwriting Deficiencies:

The lender did not adequately evaluate the borrowers' credit history. The lender did not provide adequate explanation for derogatory credit items noted on the borrowers' credit history, including accounts in collection status.

Response:

The loan received an "Accept" designation from Freddie Mac's Loan Prospector. Accordingly, per FHA and Freddie Mac if a file receives an Accept designation, the file has "Credit Warranties and Waivers" as noted on the LP feedback certificate. **Credit Warranty F0** on the feedback certificate states: "*Credit Warranty: Not required to determine that the borrower shows the willingness to pay.*" Additionally, FHA HOC in Denver and Santa Ana have hosted lender seminars in which they have provided guidance on this issue.

We properly relied upon the guidance provided by HUD staff.

We are providing the following in support of the above statements:

1. Copy of pages 25 and 137 of the presentation provided by Denver HOC in August 2003.
2. Copy of page 88 of the presentation provided by the Santa Ana HOC in April 2002.
3. Page 2-5 of the HUD Handbook 4155.1 Rev 4 Chg 1.
4. Page 43 and Exercise page 3, from an LP Originator workshop.
5. Page 17 of Appendix B, Documentation Matrix.

Comment 2

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Gift Transfer Undocumented

The lender did not document the transfer of funds from the gift donor to the borrower.

Response

Broad Street respectfully submits that the OIG is incorrect in its finding. Attached is a copy of the wire transfer of funds from the donor to the closing agent for the amount of the gift.

Comment 1

Joseph Dewy
Neighborhood Gold Inc
313 East University Parkway
Orem, UT 84058

Accepted on: Jun 27, 2002 at 09:11:30 AM
Send Date: Jun 27, 2002

Debit Bank: 001 - Zions Bank - Utah
Debit Account: [REDACTED] - The Buyers Fund

Credit Bank: [REDACTED] - COMPASS BANK
Credit Account: [REDACTED] - Alamo Title company

Debit Currency: USD - United States Dollar
Debit Amount: 6,395.00

Credit Currency: USD - United States Dollar
Credit Amount: 6,395.00

Template ID: NONREP02 - 0 Approvers
Originator-to-Beneficiary: line 1 - 19193 [REDACTED]
line 2 - escrow #02-55002312
Entry Cust/User: 001nbgi - 5000

Entry Date/Time: Jun 27, 2002 - 09:10:55 AM

Bank Trace #: 2002178000084
Cust Trace No: 11281

Please press the print button on your browser to generate a hard copy of this wire transfer request.

This transaction is subject to bank rules and regulations governing such electronic transactions as described in our services agreement. Please keep these numbers handy in case you have any questions regarding this transaction. If any portion of the above is incorrect, or you have further questions, please contact customer service. Thank You.



495-6158507

7329011704

Evidence of Receipt of (DAP) Funds

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[REDACTED]
7329011947
495-6144826
LP Accept
06-28-2002

Underwriting Deficiencies:

The lender did not adequately evaluate the borrowers' credit history. The lender did not provide adequate explanation for derogatory credit items noted on the borrowers' credit history, including accounts in collection status.

Response:

The loan received an "Accept" designation from Freddie Mac's Loan Prospector. Accordingly, per FHA and Freddie Mac if a file receives an Accept designation, the file has "Credit Warranties and Waivers" as noted on the LP feedback certificate. **Credit Warranty F0** on the feedback certificate states: "*Credit Warranty: Not required to determine that the borrower shows the willingness to pay.*" Additionally, FHA HOC in Denver and Santa Ana have hosted lender seminars in which they have provided guidance on this issue.

We properly relied upon the guidance provided by HUD staff.

We are providing the following in support of the above statements:

1. Copy of pages 25 and 137 of the presentation provided by Denver HOC in August 2003.
2. Copy of page 88 of the presentation provided by the Santa Ana HOC in April 2002.
3. Page 2-5 of the HUD Handbook 4155.1 Rev 4 Chg 1.
- 4 Page 43 and Exercise page 3, from an LP Originator workshop.
5. Page 17 of Appendix B, Documentation Matrix.

Comment 2

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Gift Letter Undocumented

The lender did not document the transfer of funds from the gift donor to the borrower.

Response

Broad Street respectfully submits that the OIG is incorrect in its finding. Attached is a copy of the wire transfer of funds from the donor to the closing agent for the amount of the gift.

Comment 2

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7329011936
495-6107852
LP Accept
05-09-2002

Underwriting Deficiencies:

The lender did not adequately evaluate the borrowers' credit history. The lender did not provide adequate explanation for derogatory credit items noted on the borrowers' credit history, including accounts in collection status.

Response:

The loan received an "Accept" designation from Freddie Mac's Loan Prospector. Accordingly, per FHA and Freddie Mac if a file receives an Accept designation, the file has "Credit Warranties and Waivers" as noted on the LP feedback certificate. **Credit Warranty F0** on the feedback certificate states: "*Credit Warranty: Not required to determine that the borrower shows the willingness to pay.*" Additionally, FHA HOC in Denver and Santa Ana have hosted lender seminars in which they have provided guidance on this issue.

We properly relied upon the guidance provided by HUD staff.

We are providing the following in support of the above statements:

1. Copy of pages 25 and 137 of the presentation provided by Denver HOC in August 2003.
2. Copy of page 88 of the presentation provided by the Santa Ana HOC in April 2002.
3. Page 2-5 of the HUD Handbook 4155.1 Rev 4 Chg 1.
4. Page 43 and Exercise page 3, from an LP Originator workshop.
5. Page 17 of Appendix B, Documentation Matrix.

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Gift Transfer Undocumented

The lender did not document the transfer of funds from the gift donor to the borrower.

Response

Broad Street is in the process of obtaining evidence of the gift transfer from the donor to the borrower. We will provide the OIG with a copy upon our receipt.

Comment 2

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7329012326
495-6289869
LP Accept
09-26-2002

Underwriting Deficiencies:

The lender did not adequately evaluate the borrowers' credit history. The lender did not provide an adequate explanation for derogatory credit items noted on the borrowers' credit reports and accounts in collection status.

Response:

The loan received an "Accept" designation from Freddie Mac's Loan Prospector. Both FHA and Freddie Mac if a file receives an Accept designation, the file has "Credit Waivers" as noted on the LP feedback certificate. **Credit Warranty F0** on the LP feedback certificate states: "Credit Warranty: Not required to determine that the borrower should pay." Additionally, FHA HOC in Denver and Santa Ana have hosted lender seminars and have provided guidance on this issue.

We properly relied upon the guidance provided by HUD staff.

We are providing the following in support of the above statements:

1. Copy of pages 25 and 137 of the presentation provided by Denver HOC in Santa Ana.
2. Copy of page 88 of the presentation provided by the Santa Ana HOC in Santa Ana.
3. Page 2-5 of the HUD Handbook 4155.1 Rev 4 Chg 1.
4. Page 43 and Exercise page 3, from an LP Originator workshop.
5. Page 17 of Appendix B, Documentation Matrix.

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As to the defaulted student loans of the NPS:

We agree that the defaulted student loans, currently in collection, should have been taken into consideration and resolved prior to the loan closing.

GIFT TRANSFER UNDOCUMENTED

THE LENDER DID NOT DOCUMENT THE TRANSFER OF FUNDS FROM THE GIFT DONOR TO THE BORROWER.

RESPONSE

BROAD STREET RESPECTFULLY SUBMITS THAT THE OIG IS INCORRECT IN ITS FINDING. ATTACHED IS A COPY OF THE WIRE TRANSFER OF FUNDS FROM THE DONOR TO THE CLOSING AGENT FOR THE AMOUNT OF THE GIFT.

Comment 1

APR-06-2005 WED 11:53 AM

FAX NO.

P. 06

04/01/2005 FRI 18:18 FAX 2105310943 THOMAS ADRISSON ATTY

W0004/002

Jan-28-2002 02:09pm From-FUNDS MANAGEMENT

2102205675

T-468 P.002/002 F-397

FNO PHONE ADVISE ✓ SND DATE: / / TRN:020628-002401

SRCFED RPT# AMT 5,400.00 CURUSD
TEST: VAL: / / TYP:FTR MTP: FNDS:S CHG:DBN CDN COMN CBLI

DBT DEPT: 0020143 RTC:
ZIONS FIRST NATIONAL BANK
SALT LAKE CITY, UT

CDT DEPT: 0020143 RTC: ADV PHN
TICOR TITLE AGENCY OF SAN ANTONIO
ATTN: JAMIE SANDERS
2931 E. SOUTHCROSS BLVD.
SAN ANTONIO TEXAS 78223
BNF /010429546 CHI BK?
TICOR TITLE OF SAN ANTONIO

✓ SDR REF NUM 020628122503H200
ORIG /071022380
THE BUYERS FUND
313 EAST UNIVERSITY PARKWAY
OREM, UT 84058-
REF NUM

✓ ORIG TO BNF INFO:
17771
ESCROW #08041085

{1100}02P N
{1110}06281428FT01
{1120}20020628K4QLA01C000B1106281428FT01
{1510}1000
{1520}20020628L2LFZ01C000675
{2000}000000540000
{3100}124000054ZIONS BANK*
5 THOUSAND, 400 DOLLARS EVEN
Press SHIFT/RELEASE when advising is completed for the current message

GF#02041085B.SS

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7329013528
495-6530294
LP ACCEPT
04-16-2003

Underwriting Deficiencies:

The lender did not adequately evaluate the borrowers' credit history. The lender did not provide an adequate explanation for derogatory credit items noted on the borrowers' credit reports and accounts in collection status.

Response:

The loan received an "Accept" designation from Freddie Mac's Loan Prospector. Both FHA and Freddie Mac if a file receives an Accept designation, the file has "Credit Waivers" as noted on the LP feedback certificate. **Credit Warranty F0** on the LP feedback certificate states: "*Credit Warranty: Not required to determine that the borrower shows the ability to pay.*" Additionally, FHA HOC in Denver and Santa Ana have hosted lender seminars and have provided guidance on this issue.

We properly relied upon the guidance provided by HUD staff.

We are providing the following in support of the above statements:

1. Copy of pages 25 and 137 of the presentation provided by Denver HOC in Denver.
2. Copy of page 88 of the presentation provided by the Santa Ana HOC in Denver.
3. Page 2-5 of the HUD Handbook 4155.1 Rev 4 Chg 1.
4. Page 43 and Exercise page 3, from an LP Originator workshop.

Comment 2

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5. Page 17 of Appendix B, Documentation Matrix.

GIFT TRANSFER UNDOCUMENTED

THE LENDER DID NOT DOCUMENT THE TRANSFER OF FUNDS FROM THE GIFT DONOR TO THE BORROWER.

RESPONSE

BROAD STREET RESPECTFULLY SUBMITS THAT THE OIG IS INCORRECT IN ITS FINDING. ATTACHED IS A COPY OF THE WIRE TRANSFER OF FUNDS FROM THE DONOR TO THE CLOSING AGENT FOR THE AMOUNT OF THE GIFT.

Comment 1



* Please Note Our New Address

* FIRST AMERICAN TITLE INSURANCE COMPANY OF TEXAS
12400 Highway 281 North, Suite 300 * San Antonio, TX 78218 * 210.495.2527 Office Phone
210.495.2912 Office Fax

Rita's Fax Page

Email for Rita is rdesselle@firstam.com

TO: Rosemarie Lopez FAX: 0449
TO: Rosemarie Lopez FAX: 212-3854
TO: _____ FAX: _____
TO: _____ FAX: _____

Parties: _____ # of Pages 8
() URGENT () For Review () Please Comment () Please Replay

Property Address: 1122 Hidden Pond GF: 94192/05

- 1. _____ Commitment
- 2. _____ Tax Certs
- 3. _____ Wiring Instructions
- 4. _____ ICPLetter
- 5. _____ Survey
- 6. _____ Termite Inspection/Treatment
- 7. _____ Preliminary/Revised/Final HUD 1
- 8. _____ Fee Sheet
- 9. _____ Restrictions
- 10. _____ Other

COMMENTS

① Final HUD
② Receipt of Grant from
Supers Fund \$7,400.00

The information in this fax, and any attachments, may contain confidential information and it is intended solely for the attention and use of the named addressee(s). It must not be disclosed to any person without authorization. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are not authorized to, and must not disclose, copy, distribute, or retain this message or any part of it.



First American Title Insurance Company
12400 Highway 281 North, Suite 300 San Antonio, TX 78216

PR: SOCENT

Of: 1890

DATE: 02/19/2003

RECEIPT NO.: 1890880

FILE NO.: TX02-94192-SA90

RECEIPT FOR DEPOSIT

FUNDS IN THE AMOUNT OF: \$7,400.00

WERE RECEIVED FROM: The Buyer's Fund, Inc./WIN

CREDITED TO THE ACCOUNT OF:

TYPE OF DEPOSIT: Wire

REPRESENTING: Funds For Closing

Comments:

Property Location: 1122 Hidden Pond, San Antonio, TX 78227

DEPOSITED WIRE INFORMATION:

Bank Name: Zion's Bank
Contact: X
Federal Routing Number: x
Confirmation Number: 0106417050ZT
Confirmation Date/Time: 02/19/2003

BY: Shauna Calloway, 02/19/2003

ESCROW OFFICER: Dede Jackson

"The validity of this receipt, for the deposit referenced,
is subject to clearance by the depository financial institution and credit to our account."

File Copy

HPK-06-2U05 WED 11:56 AM FAX NO.
MAR 23 2005 11:19 FR FIRST AMERICAN TITLE 495 2912 10 2120

FASYLINK 42042064001 19FEB03 10:44/10:44 EST
FROM: CHASE TEXAS
CHASE TEXAS
TO: 2104952912

202C

FROM: JPMORGAN CHASE BANK TEXAS
OUR REF: T030219000988000201
TO :FIRST AMERICAN TITLE INS CO - IBC
ESCROW - SAN ANTONIO DIVISION
1919 N.W. LOOP 410, STE #200
SAN ANTONIO TX 78213-

::910 : CREDIT ADVICE:

WE CREDIT YOU

:20 SENDERS REFERENCE: 01064170502T
:21 RELATED REF: O/B ZIONS SLC
:25 ACCOUNT /
:30 VALUE DATE: 030219
:32 AMOUNT: USD7400.00
:50 ORIGINATOR: 7071022388
THE BUYERS FUND
303 EAST UNIVERSITY PARKWAY
OREM, UT 84058-
:56 INTERMEDIARY BANK: ZIONS FIRST NATIONAL BANK SALT LAKE
SALT LAKE CITY UT 84110
:72 RECEIVER INFO: /BNP/35412 FILE #94192
/TIME/10142

END OF MESSAGE

NN

495-6343427
7329012875
Evidence of Receipt of DAAU

THE BUYERS FUND, INC.

as marketed by



3575 North 100 East Suite 250 Provo, UT 84604
Phone (888) 627-3023 | Fax (888) 627-3025 • Phone (801) 224-4412 | Fax (801) 226-0878

Instructions to First American (Title Company) and Irrevocable Agreement to Issue Funds

Buyer: [REDACTED] TBFI Grant No.: 35412
Property Address: 1122 Hidden Pond, San Antonio, TX 78227
Broad Street Mortgage's Scheduled Closing Date: 2/19/2003

The Provo, Utah office of The Buyers Fund™ has given final approval for the issue of a grant to the above-named Buyer in connection with the closing. The Buyers Fund™ will wire you grant funds in the amount of \$7,400, to be disbursed to the Buyer at the closing. This grant is given on condition of your debiting the Seller's proceeds in the amount of \$8,000 at the closing and wiring such amount to The Buyers Fund™ in accordance with the instructions contained herein, and further conditioned on your (i) acceptance of liability to hold, apply and disburse the grant funds as a fiduciary and hold them in trust on the terms set forth herein, (ii) agreement to return the grant funds to The Buyers Fund™, by wire in the event that the closing shall fail to take place on or before the next business day following the Scheduled Funding Date set forth opposite the Closing Agent's signature below, with such payment to be wired before the close of business on said day, (iii) agreement to close, record and wire funds on the next business day following closing, and (iv) confirmation that the seller has agreed in writing and is obligated to pay the service fee amount set forth below at the closing of this transaction. Upon failure to remit the service fee, the Title Company will be responsible for any and all attorney fees charged in the collection of the service fees.

We will wire funds only upon faxed receipt of this document signed by the closing agent. Also, please indicate any known change to the Closing Date set forth above. IMPORTANT: Once you receive our wire, you must provide evidence of receipt of funds in the borrower's loan package that is returned to the lender.

UPON FUNDING, please wire the seller service fee of \$8,000 to The Buyers Fund™.

WIRING INSTRUCTIONS:

Destination Bank's Name: Zion's Bank
Destination Bank's Address: 406 N. State
Destination Bank's City: Orem, UT 84057
ABA Routing Number: [REDACTED]
Credit Account Number: [REDACTED]
Message: 35412-[REDACTED]

We acknowledge receipt and acceptance of the foregoing instructions, agree that they are irrevocable, agree to act in strict accordance therewith, and agree that time is of the essence thereof and that the signer of this agreement is authorized to sign on behalf of the Title Company. Should the above amounts or dates change, the Closing Agent will contact The Buyers Fund™ for new closing instructions.

Scheduled CLOSING Date: 2/19/03 Date
Scheduled FUNDING Date and Time: 2/19/03 4:00 Time
(The TIME the Closing Agent needs to receive the asset by wire from The Buyers Fund™) pm Not Needed
Dede Jackson Closing Agent Signature 2/19/03 Date Escrow #: 94912

Comment 1

Mr. James D. McKay
Page 26 of 71
April 12, 2005

████████████████████
7329011787
495-6149268
LP Accept
07/02/2002

Underwriting Deficiencies:

The lender did not adequately evaluate the borrowers' credit history. The lender did not provide adequate explanation for derogatory credit items noted on the borrowers' credit history, including accounts in collection status.

Response:

The loan received an "Accept" designation from Freddie Mac's Loan Prospector. Accordingly, per FHA and Freddie Mac if a file receives an Accept designation, the file has "Credit Warranties and Waivers" as noted on the LP feedback certificate. **Credit Warranty F0** on the feedback certificate states: "*Credit Warranty: Not required to determine that the borrower shows the willingness to pay.*" Additionally, FHA HOC in Denver and Santa Ana have hosted lender seminars in which they have provided guidance on this issue.

We properly relied upon the guidance provided by HUD staff.

We are providing the following in support of the above statements:

1. Copy of pages 25 and 137 of the presentation provided by Denver HOC in August 2003.
2. Copy of page 88 of the presentation provided by the Santa Ana HOC in April 2002.
3. Page 2-5 of the HUD Handbook 4155.1 Rev 4 Chg 1.
4. Page 43 and Exercise page 3, from an LP Originator workshop.
5. Page 17 of Appendix B, Documentation Matrix.

Comment 2

Mr. James D. McKay
Page 27 of 71
April 12, 2005

GIFT TRANSFER UNDOCUMENTED

**THE LENDER DID NOT DOCUMENT THE TRANSFER OF
FUNDS FROM THE GIFT DONOR TO THE BORROWER.**

RESPONSE

Broad Street respectfully submits that the OIG is incorrect in its finding. Attached is a copy of the wire transfer of funds from the donor to the closing agent for the amount of the gift.

Comment 1

ALAMO TITLE COMPANY

925 COKONADO BLVD. • SUITE 102 • UNIVERSAL CITY, TX 78146 • TEL. 210.659.6747 • FAX 210.659.7634

FACSIMILE COVER SHEET

Please deliver the following to:

Name: Rosa Maria

Company: _____

Fax Number: 212-0495 Date: 3/24/05

From: **Eldean Hobbs**, Escrow Assistant (eldean@alamotitle.com)

Re: 7633 Old Spanish Trail

Our File #: 03-10004347 Total # Pages 299

*****WIRING INSTRUCTIONS*****

COMPASS BANK-SAN ANTONIO
ABA NO. 113-010-547
FOR FURTHER CREDIT TO ALAMO TITLE COMPANY
ACCOUNT NO. 83026898

Per your request, these items follow this cover sheet:

- | | |
|--|--|
| <input type="checkbox"/> HUD-1 Settlement Statement | <input type="checkbox"/> Survey |
| <input type="checkbox"/> Revised | |
| <input type="checkbox"/> Title Commitment | <input type="checkbox"/> Payoff |
| <input type="checkbox"/> Revised | |
| <input type="checkbox"/> Tax Certificate | <input type="checkbox"/> Receipted Contract |
| <input type="checkbox"/> Schedule(s) <input type="checkbox"/> -A, <input type="checkbox"/> -B, <input type="checkbox"/> -C | <input type="checkbox"/> Items you require for funding |
| of Title Commitment | <i>Please Call</i> |

Message:
Please call if you have any questions.

Thank you
Eldean

Get rich quick! Count your blessings!

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE AND DOCUMENTS ACCOMPANYING SAME ARE LEGALLY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED THEREIN. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED ADDRESSEE, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPY OF ITS TELECOPY IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS TELECOPY IN ERROR, PLEASE NOTIFY US IMMEDIATELY. THANK YOU

04/01/2005 14:24 FAX 2103087280
From: Compass Bank Wire Room

FAX NO.

P. 27
002/002

LANUAREKICA
To: 555,7193,9,12108291918

Monday, July 01, 15:30:08 2002

INCOMING FUNDS TRANSFER
FACSIMILE TRANSACTION RECEIPT

Dear COMMERCIAL ABSTRACT & TITLE CO

Fax Number: 12108291918

This facsimile receipt serves as immediate notification of the following Funds Transfer Transaction that will be CREDITED to your account #210075824203

----- Incoming Funds Transfer Information -----

Beneficiary: LAWYERS TITLE OF SAN ANTONIO
Beneficiary Addr:
Beneficiary ID: 75824203
Ref For Beneficiary:

Amount: \$5000.00

Sender:
Name: ZIONS BANK
ABA #: ~~021000024~~
Reference #: 020701141818H200
Received from:
By Order Of: THE BUYERS FUND

Receiver:
Name: COMPASS BANK NA
ABA #: ~~021000024~~
Confirmation #: 20020701P2QCZ8DC00192807011620FT01

Intermediary Bank :
Beneficiary Bank : COMPASS BANK

Reference for Beneficiary :
Originator to Beneficiary : [REDACTED]

Bank to Bank Information :

Instructing Bank :

----- END Wire Transfer Information -----

CF 364582-Y/SL

[REDACTED]

Evidence of transfer of (DAP) funds to
Title Co

495-6149268

7329011787

Mr. James D. McKay
Page 28 of 71
April 12, 2005


7329012875
495-6363427
LP Accept
02-19-2003

Underwriting Deficiencies:

The lender did not adequately evaluate the borrowers' credit history. The lender did not provide adequate explanation for derogatory credit items noted on the borrowers' credit history, including accounts in collection status.

Response:

The loan received an "Accept" designation from Freddie Mac's Loan Prospector. Accordingly, per FHA and Freddie Mac if a file receives an Accept designation, the file has "Credit Warranties and Waivers" as noted on the LP feedback certificate. **Credit Warranty F0** on the feedback certificate states: "*Credit Warranty: Not required to determine that the borrower shows the willingness to pay.*" Additionally, FHA HOC in Denver and Santa Ana have hosted lender seminars in which they have provided guidance on this issue.

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Comment 2

Mr. James D. McKay
Page 29 of 71
April 12, 2005

GIFT TRANSFER UNDOCUMENTED

**THE LENDER DID NOT DOCUMENT THE TRANSFER OF
FUNDS FROM THE GIFT DONOR TO THE BORROWER.**

RESPONSE

Broad Street has not been able to obtain documentation evidencing the transfer of the gift funds.

Comment 1

Mr. James D. McKay
Page 30 of 71
April 12, 2005

[REDACTED]
7329011976
495-6172162
LP Accept
05-28-2002

Underwriting Deficiencies:

The lender did not adequately evaluate the borrowers' credit history. The lender did not provide adequate explanation for derogatory credit items noted on the borrowers' credit history, including accounts in collection status.

Response:

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5. Page 17 of Appendix B, Documentation Matrix.

Comment 2

Mr. James D. McKay
Page 31 of 71
April 12, 2005

GIFT TRANSFER UNDOCUMENTED

THE LENDER DID NOT DOCUMENT THE TRANSFER OF FUNDS FROM THE GIFT DONOR TO THE BORROWER.

RESPONSE

Broad Street is in the process of obtaining evidence of the gift transfer from the donor to the borrower. We will provide the OIG with a copy upon our receipt.

Comment 1

Mr. James D. McKay
Page 32 of 71
April 12, 2005

████████████████████
7329011428
495-6623192
LP Accept
07-01-2003

Underwriting Deficiencies:

The lender did not adequately evaluate the borrowers' credit history. The lender did not provide adequate explanation for derogatory credit items noted on the borrowers' credit history, including accounts in collection status.

Response:

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Comment 2

Mr. James D. McKay
Page 33 of 71
April 12, 2005

GIFT TRANSFER UNDOCUMENTED

**THE LENDER DID NOT DOCUMENT THE TRANSFER OF
FUNDS FROM THE GIFT DONOR TO THE BORROWER.**

RESPONSE

Broad Street respectfully submits that the OIG is incorrect in its finding. Attached is a copy of the wire transfer of funds from the donor to the closing agent for the amount of the gift.

Comment 1

County #/Name: 0431-Bexar
Branch #/Name: 0011-Universal City

Report Date: 03/24/05
Report Time: 09:25

ESCROW STATUS LEDGER FOR 03-60004347 - 03/24/05

OFFICER : KM TYPE: S SALE PRICE: \$77,000.00 EST. FEE: \$0.00
OPENED : 06/06/03 SELLER: Diane L. Rittenhouse
CLOSED : 07/01/03 BUYER: [REDACTED]
PROPERTY: 7633 Old Spanish Trail

DATE	TO CA REFERENCE #	DESCRIPTION	DI	AMOUNT	BALANCE
06/06/03	R 2 00000000000000000000	[REDACTED]	DD	300.00CR	300.00CR
07/03/05	1W 2 00000000000000000000	From: RRC Fieldcorn Mortgage	DD	71,700.34CR	72,000.34CR
07/02/05	1W 2 00000000000000000000	From: The Buyers Fund	DD	5,400.00CR	77,400.34CR
07/02/05	C 2 00000000000000000000	[REDACTED] and Tonya Murchison	DD	12.00	77,412.34CR
07/02/05	C 2 00000000000000000000	Insurance Co	KM	729.00	78,141.34CR
07/02/05	C 2 00000000000000000000	CitiMortgage	KM	46,510.40	30,240.94CR
07/02/05	C 2 00000000000000000000	Wentz Alamo	KM	378.88	29,862.06CR
07/02/05	C 2 00000000000000000000	American Homehold	KM	228.00	29,634.06CR
07/02/05	C 2 00000000000000000000	Neighborhood Coll	KM	8,000.00	21,634.06CR
07/02/05	C 2 00000000000000000000	Randolph Field Realty	KM	3,050.00	18,584.06CR
07/02/05	C 2 00000000000000000000	Beasley, Newman & Lawler	KM	75.00	18,509.06CR
07/02/05	C 2 00000000000000000000	Polyinsky & Bittel	KM	180.00	18,329.06CR
07/02/05	C 2 00000000000000000000	National Tax Net	KM	28.20	18,300.86CR
07/02/05	C 2 00000000000000000000	Alamo Title Company	KM	1,420.55	16,880.31CR
07/02/05	C 2 00000000000000000000	[REDACTED]	KM	701.19	16,179.12CR
07/02/05	C 2 00000000000000000000	Diane L. Rittenhouse	KM	17,407.97	0.00
07/02/05	CM 2 00000000000000000000	Tax Irwin Union Bank	DD	6,000.00	6,000.00
07/02/05	CA 2 00000000000000000000	Cancelled	DD	0.00CR	0.00
07/02/05	CA 2 00000000000000000000	Cancelled	DD	729.00CR	729.00CR
07/02/05	C 2 00000000000000000000	Metco General Insurance Agency	KM	729.00	0.00
SAVINGS: 0.00				** BALANCE **	0.00

Evidence of receipt of (DAP) funds

[REDACTED]
495-6623192

7329014128

Mr. James D. McKay
Page 34 of 71
April 12, 2005

[REDACTED]
7329013967
495-6147629
LP Accept
04-07-2003

Underwriting Deficiencies:

The lender did not adequately evaluate the borrowers' credit history. The lender did not provide adequate explanation for derogatory credit items noted on the borrowers' credit history, including accounts in collection status.

Response:

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5. Page 17 of Appendix B, Documentation Matrix.

Comment 2

Mr. James D. McKay
Page 35 of 71
April 12, 2005

GIFT TRANSFER UNDOCUMENTED

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FUNDS FROM THE GIFT DONOR TO THE BORROWER.**

RESPONSE

Broad Street respectfully submits that the OIG is incorrect in its finding. Attached is a copy of the wire transfer of funds from the donor to the closing agent for the amount of the gift.

Comment 1

APR-06-2005 WED 11:53 AM

FAX NO.

P. 10

04/01/2005 FRI 16:19 FAX 2105310943 THOMAS ADRISSON ATTY

0000/007

Sep-25-2002 03:04am From-FUNDS MANAGEMEN
PKINI KEU

2102205875

T-854 P.002/002 F-516

SND DATE: / / TRN:020925-002367

FND PHONE ADVISE

SRCFED RPT# AMT 8,000.00 CURUSD
TEST: VAL: / / TYP:FTR MTP: FNDS:S CHG:DBN CDN COXN CBLN

DBT ~~XXXXXXXXXX~~ ADV PHN
DEPT: 0020143 RTC:
ZIONS FIRST NATIONAL BANK
SALT LAKE CITY, UT

CDT ~~XXXXXXXXXX~~
DEPT: 0020143 RTC:
TICOR TITLE AGENCY OF SAN ANTONIO
ATTN: JAMIE SANDERS
2931 E. SOUTHCROSS BLVD.
SAN ANTONIO TEXAS 78229
BNF /010429546 CH: BK?N
TICOR TITLE OF SAN ANTONIO

SNDR REF NUM 020925134547H200
ORIG /071022380
THE BUYERS FUND
313 EAST UNIVERSITY PARKWAY
OREM, UT 84058
REF NUM

ORIG TO BNF INFO:
25470 MARTINEZ
ESCROW #01123434855

{1100}02P N
{1110}09251554FT01
{1120}20020925K4QLA01C00070109251554FT01
{1510}1000
{1520}20020925L2LFZB1C000676
{2000}000000800000
{3100}124000054ZIONS BANK*
0 THOUSAND DOLLARS EVEN
Press SHIFT/RELEASE when advising is completed for the current message

GF# 02040987 B.SS

Mr. James D. McKay
Page 36 of 71
April 12, 2005

~~7329012948~~
7329012948
495-6387750
LP Accept
12-12-2002

Underwriting Deficiencies:

The lender did not adequately evaluate the borrowers' credit history. The lender did not provide adequate explanation for derogatory credit items noted on the borrowers' credit history, including accounts in collection status.

Response:

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5. Page 17 of Appendix B, Documentation Matrix.

Comment 2

Mr. James D. McKay
Page 37 of 71
April 12, 2005

GIFT TRANSFER UNDOCUMENTED

**THE LENDER DID NOT DOCUMENT THE TRANSFER OF
FUNDS FROM THE GIFT DONOR TO THE BORROWER.**

RESPONSE

Broad Street respectfully submits that the OIG is incorrect in its finding. Attached is a copy of the wire transfer of funds from the donor to the closing agent for the amount of the gift.

Comment 1

Mr. James D. McKay
Page 38 of 71
April 12, 2005

██████████

7329012704
495-6333860
LP Accept

Closed 10/30/02

Underwriting Deficiencies:

The lender did not adequately evaluate the borrowers' credit history. The lender did not provide adequate explanation for derogatory credit items noted on the borrowers' credit history, including accounts in collection status.

Response:

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Comment 2

Mr. James D. McKay
Page 39 of 71
April 12, 2005

5. Page 17 of Appendix B, Documentation Matrix.

GIFT TRANSFER UNDOCUMENTED

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Comment 1

APR-06-2005 WED 11:57 AM
Wire Transfer Entry Review

FAX NO.

Joseph Dowy
Neighborhood Gold Inc
313 East University Parkway
Orem, UT 84058

Accepted on: Oct 29, 2004
Send Date: Oct 29, 2004

Debit Bank: 001 - Zions Bank - Utah
Debit Account: ~~XXXXXXXXXX~~ - The Buyers Fund

Credit Bank: ~~XXXXXXXXXX~~
Credit Account: ~~XXXXXXXXXX~~

Debit Currency: USD - United States Dollar
Debit Amount: 6,815.00

Credit Currency: USD - U.S.
Credit Amount: 6,815.00

Template ID: NONREP02 - 0 Approvers
Originator-to-Beneficiary: line 1 - 27796 ~~XXXXXXXXXX~~
line 2 - file# 55002593
Entry Cust/User: 001nbg1 - 8000

Entry Date/Time: Oct 29, 2004

Bank Trace #: 2002302000351
Cust Trace No: 18372

Please press the print button on your browser to generate a hard copy of this request.

This transaction is subject to bank rules and regulations governing such electronic transactions as described in our services agreement. Please keep these numbers in case you have any questions regarding this transaction. If any portion of the above is incorrect, or you have further questions, please call customer service. Thank You.

Evidence of (DAP) Transfer of Fund

~~XXXXXXXXXX~~ 7329012704
495-6333860

<https://www.firstpointe.com/iBank/mts/MtInput/wireconfirm.cfm>

Mr. James D. McKay
Page 40 of 71
April 12, 2005

~~7329011827~~
7329011827
495-6136162
LP Accept

Underwriting Deficiencies:

The lender did not adequately evaluate the borrowers' credit history. The lender did not provide adequate explanation for derogatory credit items noted on the borrowers' credit history, including accounts in collection status.

Response:

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Mr. James D. McKay
Page 41 of 71
April 12, 2005

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RESPONSE

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Comment 2

APK-UB-2005 WED 11:57 AM

FAX NO.

P. 24

04/01/2005 FRI 18:18 FAX 2105310943 THOMAS ADKISSON ATTY

Jun-28-2002 11:47am From-FUNDS MANAGEMENT

2102205876

T-459 P.002/002 F-386

FND SRCFED PHONE AD E

SND DATE: / / TRN:020620-00141

TEST: RPT# AMT 6,968.00 CURUSD

VAL: / / TYP:FTR MTP: FNDG:S CHG:DBN CDN COMN CBL

DEPT: 0020143 RTC: ZIONS FIRST NATIONAL BANK SALT LAKE CITY, UT

DEPT: 0020143 RTC: TICOR TITLE AGENCY OF SAN ANTONIO ATTN: JAMIE SANDERS 2931 E. SOUTHCROSS BLVD. SAN ANTONIO TEXAS 78223 BNF /010429546 TICOR TITLE AGENCY OF SAN ANTONIO

SNDR REF NUM 020620095116H200 ORIG /071022386 THE BUYERS FUND 313 EAST UNIVERSITY PARKWAY OREM, UT 84058- REF NUM

ORIG TO BNF INFO: 18348 WILLIAMS

{1100}02P N
{1110}06281208FT01
{1120}20020628K4QLA01C000S0106281208FT01
{1510}1000
{1520}20020628L2LF281C000272
{2000}000000696800
{3100}124000054ZIONS BANK*
6 THOUSAND, 968 DOLLARS

Press SHIFT/RELEASE when advising is completed for the current message

GF#02030848B-ss

Mr. James D. McKay
Page 42 of 71
April 12, 2005

~~Company~~
7329012696
495-6321261
LP Accept

Underwriting Deficiencies:

The lender did not adequately evaluate the borrowers' credit history. The lender did not provide adequate explanation for derogatory credit items noted on the borrowers' credit history, including accounts in collection status.

Response:

The loan received an "Accept" designation from Freddie Mac's Loan Prospector. Accordingly, per FHA and Freddie Mac if a file receives an Accept designation, the file has "Credit Warranties and Waivers" as noted on the LP feedback certificate. **Credit Warranty F0** on the feedback certificate states: "*Credit Warranty: Not required to determine that the borrower shows the willingness to pay.*" Additionally, FHA HOC in Denver and Santa Ana have hosted lender seminars in which they have provided guidance on this issue.

We properly relied upon the guidance provided by HUD staff.

We are providing the following in support of the above statements:

1. Copy of pages 25 and 137 of the presentation provided by Denver HOC in August 2003.
2. Copy of page 88 of the presentation provided by the Santa Ana HOC in April 2002.
3. Page 2-5 of the HUD Handbook 4155.1 Rev 4 Chg 1.
- 4 Page 43 and Exercise page 3, from an LP Originator workshop.
5. Page 17 of Appendix B, Documentation Matrix.

Comment 2

Mr. James D. McKay
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April 12, 2005

GIFT TRANSFER UNDOCUMENTED

THE LENDER DID NOT DOCUMENT THE TRANSFER OF FUNDS FROM THE GIFT DONOR TO THE BORROWER.

RESPONSE

Broad Street respectfully submits that the OIG is incorrect in its finding. Attached is a copy of the wire transfer of funds from the donor to the closing agent for the amount of the gift.

Comment 2

APR-06-2005 WED 11:53 AM
Apr. 6. 2005 10:37AM

FAX NO.

No. 6323 P. 1 P. 08

Chicago Title Insurance Company

270 N. Loop 1604 E., Ste. 100, San Antonio, Texas 78232
Phone: (210)482-3500 Fax: (210)482-3690

Date: 4/6/05

Number of pages being transmitted (including cover sheet): 2

PLEASE DELIVER THE FOLLOWING PAGES TO:

Name: Rosemary Fax Number: 212-0495

Name: _____ Fax Number: _____

Name: _____ Fax Number: _____

Name: _____ Fax Number: _____

Phone: 210-482-3500

Fax: 210-482-3690

From:
Adrienne Forks
Escrow Officer
forksa@cti.com
Direct: 210-482-3506

Mary Helen Hawkins
Escrow Assistant
hawkinsmh@cti.com
Direct: 210-482-3541

April Schweitzer
Escrow Assistant
april.schweitzer@cti.com
Direct: 210-482-3531

Message:

Gift fund wire on

2002 7778

Wiring Instructions for Chicago Title

CHASE BANK OF TEXAS
ABA NO. 113000609
FOR CREDIT TO: CHICAGO TITLE INSURANCE COMPANY
ACCOUNT NO. 06407047517
FOR PROPER CREDIT, PLEASE REFERENCE GF NO. _____ -AF

HPK-UG-ZUUB WED 11:53 AM
Apr. 6. 2005 10:37AM

FAX NO.

No. 6323 P. 2 P. 07



CHICAGO TITLE INSURANCE COMPANY

270 N. LOOP 1604, E. #100
San Antonio, TX 78232
(210) 482-3500 FAX: (210) 482-3695

ESCROW RECEIPT

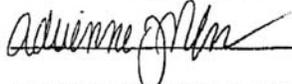


Receipt/Document No.: 00000009790

Escrow No.: 02001-020027778_001 AP Date: October 29, 2002
Check Payor: THE BUYERS FUND
Description: CLOSING COSTS
Property Address: 4907 ASPEN VIEW, LT 62 BL 7 MCB 14578
NORTHER HGTS #1
SAN ANTONIO, Texas 78217

Receipt Wire \$ 5,000.00

Total Receipt \$ 5,000.00

Received by: 

ALL CHECKS RECEIVED SUBJECT TO COLLECTION.

BETHCHPT

Mr. James D. McKay
Page 44 of 71
April 12, 2005

[REDACTED]
7329014162
495-6609733
LP Accept

Underwriting Deficiencies:

The lender did not require the borrowers to make the minimum investment. The lender gave the borrowers an unexplained credit of \$3,601 toward the downpayment.

Response:

The credit was not for downpayment. The credit was for the borrowers' closings costs and pre-pays.

Total closing costs:	\$2,237.35
Total prepaids:	<u>\$1,747.13</u>
Total:	\$3,984.48

The credit was less than the total noted above. Lender credits are acceptable to FHA.

Underwriting Deficiencies:

The lender did not adequately evaluate the borrowers' credit history. The lender did not provide adequate explanation for derogatory credit items noted on the borrowers' credit history, including accounts in collection status.

Response:

The loan received an "Accept" designation from Freddie Mac's Loan Prospector. Accordingly, per

Comment 2

Comment 2

Mr. James D. McKay
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April 12, 2005

FHA and Freddie Mac if a file receives an Accept designation, the file has "Credit Warranties and Waivers" as noted on the LP feedback certificate. **Credit Warranty F0** on the feedback certificate states: "*Credit Warranty: Not required to determine that the borrower shows the willingness to pay.*" Additionally, FHA HOC in Denver and Santa Ana have hosted lender seminars in which they have provided guidance on this issue.

We properly relied upon the guidance provided by HUD staff.

We are providing the following in support of the above statements:

1. Copy of pages 25 and 137 of the presentation provided by Denver HOC in August 2003.
2. Copy of page 88 of the presentation provided by the Santa Ana HOC in April 2002.
3. Page 2-5 of the HUD Handbook 4155.1 Rev 4 Chg 1.
4. Page 43 and Exercise page 3, from an LP Originator workshop.
5. Page 17 of Appendix B, Documentation Matrix.

GIFT TRANSFER UNDOCUMENTED

THE LENDER DID NOT DOCUMENT THE TRANSFER OF FUNDS FROM THE GIFT DONOR TO THE BORROWER.

RESPONSE

Broad Street respectfully submits that the OIG is incorrect in its finding. Attached is a copy of the wire transfer of funds from the donor to the closing agent for the amount of the gift.

Comment 1

APR-06-2005 WED 11:52 AM

3/18/2005 1:01 PM FAX NO. 17003 FAX 061701

P. 04



First American

First American Title Insurance Company
12400 Highway 281 North, Suite 300
San Antonio, TX 78216
Ph - (210) 495-2527
Fax - (210) 495-2912

FAX COVER SHEET

DATE: 03/18/2005
TO: Tom B.
FAX NO.: 12102120444
ATTN:
FROM: Melissa Juarez

RE: File No.: TX03236458-SA90
Property: 716 Eagle Trail, San Antonio, TX 78227

SUBJECT: Here is a copy of the wire from Ameridream. Call me if this not enough.

Receipt/Deposit Summary Report

Processing Region: SOCENT - South Central Region
Office Name: 1898 - SAT North Central
Office Address: 12400 Highway 231 North, Suite 300, San Antonio, TX 78216
Office Phone/Fax: (210) 495-2527 / (210) 455-2912

File No: TX0226458-SA90

Officer: Kris Abdon /MMJ

Est Settlement Date: 08/15/2003
Settlement Date: 08/15/2003
Disbursement Date: 08/19/2003

Property: 716 Eagle Trail
San Antonio, TX 78227

Buyer: Choice Homes, Inc.
Seller: Choice Homes, Inc.

Receipt No. / Status	Issue Date / Transmitted Date	From	Receipt Amt / After Hours	Representation / Description	Credit / Received From	Deposit Initiation / Bank Code - Account Number	Processed By - Date
18902201 Issued	08/15/2003 / 08/15/2003	Wt. Ausdrickan	45,117.20	Additional Deposit	File Wt. Ausdrickan	JPMorgan Chase Bank - 031 - 03100326482	08/15/2003 6:42:33 AM
18902214 Issued	08/19/2003 / 08/20/2003	Fiduciary Mortgage Company-ck	5105,142.17	Loan Proceeds	File Fiduciary Mortgage Company-ck	JPMorgan Chase Bank - 031 - 03100326482	08/19/2003 2:02:41 PM

Receipt Issued Total: \$113,310.07
Net Receipt Adjustments: \$0.00
Net Receipt Issued: \$113,310.07

495-609733
7329 014162
Enclosure of Receipt
of (DAP) funds

Mr. James D. McKay
Page 46 of 71
April 12, 2005
██████████
7329011974
495-6153000
LP Accept

Underwriting Deficiencies:

The lender did not require the borrowers to make the minimum investment. The lender gave the borrowers an unexplained credit of \$3,189 toward the downpayment.

Response:

The credit was not for downpayment. The credit was for the borrowers' closings costs and pre-pays.

Total closing costs:	\$1,949.00
Total prepaids:	<u>\$1,413.77</u>
Total:	\$3,362.77

The credit was less than the total noted above. Lender credits are acceptable to FHA.

Underwriting Deficiencies:

The lender did not adequately evaluate the borrowers' credit history. The lender did not provide adequate explanation for derogatory credit items noted on the borrowers' credit history, including accounts in collection status.

Response:

The loan received an "Accept" designation from Freddie Mac's Loan Prospector. Accordingly, per FHA and Freddie Mac if a file receives an Accept designation, the file has "Credit Warranties and Waivers" as noted on the LP feedback certificate. **Credit Warranty F0** on the feedback certificate

Comment 2

Comment 2

Mr. James D. McKay
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April 12, 2005

states: "*Credit Warranty: Not required to determine that the borrower shows the willingness to pay.*" Additionally, FHA HOC in Denver and Santa Ana have hosted lender seminars in which they have provided guidance on this issue.

We properly relied upon the guidance provided by HUD staff.

We are providing the following in support of the above statements:

1. Copy of pages 25 and 137 of the presentation provided by Denver HOC in August 2003.
2. Copy of page 88 of the presentation provided by the Santa Ana HOC in April 2002.
3. Page 2-5 of the HUD Handbook 4155.1 Rev 4 Chg 1.
4. Page 43 and Exercise page 3, from an LP Originator workshop.
5. Page 17 of Appendix B, Documentation Matrix.

GIFT TRANSFER UNDOCUMENTED

THE LENDER DID NOT DOCUMENT THE TRANSFER OF FUNDS FROM THE GIFT DONOR TO THE BORROWER.

RESPONSE

Broad Street is in the process of obtaining evidence of the gift transfer from the donor to the borrower. We will provide the OIG with a copy upon our receipt.

Comment 2

Mr. James D. McKay
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April 12, 2005

~~XXXXXX~~
7329013958
495-6563001
LP Accept

Underwriting Deficiencies:

The lender did not adequately evaluate the borrowers' credit history. The lender did not provide adequate explanation for derogatory credit items noted on the borrowers' credit history, including accounts in collection status.

Response:

The loan received an "Accept" designation from Freddie Mac's Loan Prospector. Accordingly, per FHA and Freddie Mac if a file receives an Accept designation, the file has "Credit Warranties and Waivers" as noted on the LP feedback certificate. **Credit Warranty F0** on the feedback certificate states: "*Credit Warranty: Not required to determine that the borrower shows the willingness to pay.*" Additionally, FHA HOC in Denver and Santa Ana have hosted lender seminars in which they have provided guidance on this issue.

We properly relied upon the guidance provided by HUD staff.

We are providing the following in support of the above statements:

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2. Copy of page 88 of the presentation provided by the Santa Ana HOC in April 2002.
3. Page 2-5 of the HUD Handbook 4155.1 Rev 4 Chg 1.
4. Page 43 and Exercise page 3, from an LP Originator workshop.
5. Page 17 of Appendix B, Documentation Matrix.

Comment 2

Mr. James D. McKay
Page 49 of 71
April 12, 2005

GIFT TRANSFER UNDOCUMENTED

THE LENDER DID NOT DOCUMENT THE TRANSFER OF FUNDS FROM THE GIFT DONOR TO THE BORROWER.

RESPONSE

BROAD STREET IS IN THE PROCESS OF OBTAINING EVIDENCE OF THE GIFT TRANSFER FROM THE DONOR TO THE BORROWER. WE WILL PROVIDE THE OIG WITH A COPY UPON OUR RECEIPT.

Comment 1

Mr. James D. McKay
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April 12, 2005



7329013340
495-6173527
LP Accept

Underwriting Deficiencies:

The lender did not adequately evaluate the borrowers' credit history. The lender did not provide adequate explanation for derogatory credit items noted on the borrowers' credit history, including accounts in collection status.

Response:

The loan received an "Accept" designation from Freddie Mac's Loan Prospector. Accordingly, per FHA and Freddie Mac if a file receives an Accept designation, the file has "Credit Warranties and Waivers" as noted on the LP feedback certificate. **Credit Warranty F0** on the feedback certificate states: "*Credit Warranty: Not required to determine that the borrower shows the willingness to pay.*" Additionally, FHA HOC in Denver and Santa Ana have hosted lender seminars in which they have provided guidance on this issue.

We properly relied upon the guidance provided by HUD staff.

We are providing the following in support of the above statements:

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2. Copy of page 88 of the presentation provided by the Santa Ana HOC in April 2002.
3. Page 2-5 of the HUD Handbook 4155.1 Rev 4 Chg 1.
4. Page 43 and Exercise page 3, from an LP Originator workshop.
5. Page 17 of Appendix B, Documentation Matrix.

Comment 2

Mr. James D. McKay
Page 51 of 71
April 12, 2005

However in reviewing the loan, we discovered that there are 2 defaulted student loans that were not addressed as to current status. Since these are considered a federal agency debt, they should have been considered in the analysis.

Gift Transfer Undocumented

The lender did not document the transfer of funds from the gift donor to the borrower.

Response

Broad Street respectfully submits that the OIG is incorrect in its finding. Attached is a copy of the wire transfer of funds from the donor to the closing agent for the amount of the gift.

Comment 1

APK-06-2005 WED 11:55 AM FAX NO. P. 15
04/01/2005 FRI 10:10 FAX 2105310943 THOMAS ADRISSON ATTY @uuu/uuu/

Mar-10-2003 10:53 From: FUNDS MANAGEMENT 2102205675 T-733 P.002/002 F-574

FNB PHONE ADVISE SND DATE: / / TRN:030310-000686

SRCFED RPT# AMT 13,745.00 CURUSD
TEST: VAL: / / TYP:PTR MTP: FNDsis CHG:DSN CD1 COMN CBLN

DBT A DEPT: 0020143 RTC: ZIONS FIRST NATIONAL BANK SALT LAKE CITY, UT	CDT #010429546 ADV PHN DEPT: 0020143 RTC: TICOR TITLE AGENCY OF SAN ANTONIO ATTN: JAMIE SANDERS 2823 E. SOUTHCROSS BLVD.#A SAN ANTONIO TEXAS 78223-1835 BNF /010429546 CHI BK?N TICOR TITLE AGENCY OF SAN ANTONIO
SNDR REF NUM 030310085346H200 ORIG /071022388 THE BUYERS FUND 313 EAST UNIVERSITY PARKWAY DREX, UT 84058- REF NUM	ORIG TO BNF INFO: 36358 FILE #02051333B-S6

{1100}02P N
{1110}03101112FT01
{1120}20030310K4QLA01C00023603101112FT01
{1510}1000
{1520}20030310L2LFZB1C000081
{2000}000001374500
{3100}124000054ZIONS BANK*
13 THOUSAND, 745 DOLLARS
Press SHIFT/RELEASE when advising is completed for the current message

LF#02051333B.SS

Mr. James D. McKay
Page 52 of 71
April 12, 2005

~~7329014746~~
7329014746
495-6704874
LP Accept

Underwriting Deficiencies:

The lender did not resolve inconsistencies in the file. Earnest money was listed as \$0, \$500, and \$2,200. Cash require for closing was \$1,456, but the buyer only had \$395.

Response:

This is "new construction". Builders often require the borrower to make a basic Earnest Money ("EM") deposit. Based on the borrower preference items, additional EM may be required. Page one of the contract reflects the standard \$500 EM, the addendum show the remainder of the EM. The total EM on the HUD was under 2%, the amount HUD requires lenders to document the EM. The borrower did not have to bring \$1,456 to closing, this amount was actually "cash to" the borrower as a refund due to the DPA funds deposited.

Underwriting Deficiencies:

The lender did not adequately evaluate the borrowers' credit history. The lender did not provide adequate explanation for derogatory credit items noted on the borrowers' credit history, including accounts in collection status.

Response:

The loan received an "Accept" designation from Freddie Mac's Loan Prospector. Accordingly, per FHA and Freddie Mac if a file receives an Accept designation, the file has "Credit Warranties and

Comment 2

Comment 2

Mr. James D. McKay
Page 53 of 71
April 12, 2005

Waivers” as noted on the LP feedback certificate. **Credit Warranty F0** on the feedback certificate states: “*Credit Warranty: Not required to determine that the borrower shows the willingness to pay.*” Additionally, FHA HOC in Denver and Santa Ana have hosted lender seminars in which they have provided guidance on this issue.

We properly relied upon the guidance provided by HUD staff.

We are providing the following in support of the above statements:

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4. Page 43 and Exercise page 3, from an LP Originator workshop.
5. Page 17 of Appendix B, Documentation Matrix.

Gift Transfer Undocumented

The lender did not document the transfer of funds from the gift donor to the borrower.

Response

Broad Street is in the process of obtaining evidence of the gift transfer from the donor to the borrower. We will provide the OIG with a copy upon our receipt.

Comment 1

Mr. James D. McKay
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April 12, 2005


7329012990
495-72770669
LP Accept

Underwriting Deficiencies:

The lender did not adequately evaluate the borrowers' credit history. The lender did not provide adequate explanation for derogatory credit items noted on the borrowers' credit history, including accounts in collection status.

Response:

The loan received an "Accept" designation from Freddie Mac's Loan Prospector. Accordingly, per FHA and Freddie Mac if a file receives an Accept designation, the file has "Credit Warranties and Waivers" as noted on the LP feedback certificate. **Credit Warranty F0** on the feedback certificate states: "*Credit Warranty: Not required to determine that the borrower shows the willingness to pay.*" Additionally, FHA HOC in Denver and Santa Ana have hosted lender seminars in which they have provided guidance on this issue.

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3. Page 2-5 of the HUD Handbook 4155.1 Rev 4 Chg 1.
4. Page 43 and Exercise page 3, from an LP Originator workshop.
5. Page 17 of Appendix B, Documentation Matrix.

Comment 2

Mr. James D. McKay
Page 55 of 71
April 12, 2005

Gift Transfer Undocumented

The lender did not document the transfer of funds from the gift donor to the borrower.

Response

Broad Street respectfully submits that the OIG is incorrect in its finding. Attached is a copy of the wire transfer of funds from the donor to the closing agent for the amount of the gift.

Comment 2



[REDACTED]
From: Bank of America, Wire Transfer Services
Wire Transfer Advice
Date: 15-JAN-2003, Account: 001390079122

PAID
JAN 15 2003

FIRST AMERICAN TITLE INSURANCE
COMPANY OF TEXAS KB HOME ESCR ACCT
1500 S DAIRY ASHFORD ST STE 300
HOUSTON, TX 77077-3858
Acct: BETTY GOODY

Direct inquiries to the Customer Service number listed on your bank statement.
Thank you for using Bank of America Wire Transfer Services.

This transaction was credited today in the amount of \$4,400.00

Transaction Ref: 030115025055
Sender's Ref: 030115092403H200
Fedref/Seq: IMAD=2003011512LF2B1C000155
Originator: 071022388 THE BUYERS FUND
Sending Bnk: [REDACTED] 113 EAST UNIVERSITY PARKWAY
Beneficiary: [REDACTED] OREM, UT 84058-
Payment Details: [REDACTED] ZIONS FIRST NATIONAL BANK
31035 [REDACTED] SALT LAKE CITY, UT
FILE 02-009505 FIRST AMERICAN TITLE INS - KB HOME
NNNN

Evidence of funds sent to Title (LAP)

73 290 11827

[REDACTED]

495-6136162

APK-UB-ZUUB WED 11:58 AM

FIRST AMERICAN TITLE FAX: 713-785-7714
from: 1-800-827-3062 to: 31035-Williams-Carol-First American Title

FAX NO. Mar 29 2005 12:15 P. US
Page: 1/1 Date: 1/17/2003 9:54:48 AM

P. 26

THE BUYERS FUND™

As promoted by Neighborhood Gold™
3575 North 100 East Suite 250 Provo, UT 84604 PH (801) 224-4412 FAX (801) 224-9230

To:	Carol at First American Title	From:	Finance Department
Fax:	(713) 785-7710	Pages:	1, including cover
Phone:	(713) 785-7700	Date:	1/17/2003
Re:	Reminder of \$7,000.00 in Funds Not Yet Returned for: ████████████████████ 5743 Roe Hampton Court Houston, TX 77084		

On Wednesday, January 15 at 9:23 am, the Buyer's Fund™ wired out funds for the Williams file. We expected you to wire the funds back to us within 24 hours: by Thursday, January 16 at 9:23 am, that time has now passed.

If you have already wired the funds back or if you believe that the bank may be in error, please call us at (801) 224-4412. Our internal reference number for this file is: 31035.

Please wire the seller service fee of \$7,000.00 to The Buyers Fund™:

WIRING INSTRUCTIONS:

Destination Bank's Name: Zion's Bank
Destination Bank's Address: 406 N. State
Destination Bank's City: Orem, UT 84057
ABA Routing Number: ██████████
Credit Account Number: ██████████
Beneficiary's Name: The Buyers Fund™
Amount: \$7,000.00
Message: 31035-Williams

Mr. James D. McKay
Page 56 of 71
April 12, 2005

~~Confidential~~
7329013162
495-6425888
LP Accept

Underwriting Deficiencies:

The lender did not adequately evaluate the borrowers' credit history. The lender did not provide adequate explanation for derogatory credit items noted on the borrowers' credit history, including accounts in collection status.

Response:

The loan received an "Accept" designation from Freddie Mac's Loan Prospector. Accordingly, per FHA and Freddie Mac if a file receives an Accept designation, the file has "Credit Warranties and Waivers" as noted on the LP feedback certificate. **Credit Warranty F0** on the feedback certificate states: "*Credit Warranty: Not required to determine that the borrower shows the willingness to pay.*" Additionally, FHA HOC in Denver and Santa Ana have hosted lender seminars in which they have provided guidance on this issue.

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2. Copy of page 88 of the presentation provided by the Santa Ana HOC in April 2002.
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4. Page 43 and Exercise page 3, from an LP Originator workshop.
5. Page 17 of Appendix B, Documentation Matrix.

Comment 2

Mr. James D. McKay
Page 57 of 71
April 12, 2005

Gift Transfer Undocumented

The lender did not document the transfer of funds from the gift donor to the borrower.

Response

Broad Street is in the process of obtaining evidence of the gift transfer from the donor to the borrower. We will provide the OIG with a copy upon our receipt.

Comment 2

Mr. James D. McKay
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April 12, 2005

Underwriting
7329012954
495-6536800
LP Accept

Underwriting Deficiencies:

The lender did not adequately evaluate the borrowers' credit history. The lender did not provide adequate explanation for derogatory credit items noted on the borrowers' credit history, including accounts in collection status.

Response:

The loan received an "Accept" designation from Freddie Mac's Loan Prospector. Accordingly, per FHA and Freddie Mac if a file receives an Accept designation, the file has "Credit Warranties and Waivers" as noted on the LP feedback certificate. **Credit Warranty F0** on the feedback certificate states: "*Credit Warranty: Not required to determine that the borrower shows the willingness to pay.*" Additionally, FHA HOC in Denver and Santa Ana have hosted lender seminars in which they have provided guidance on this issue.

We properly relied upon the guidance provided by HUD staff.

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4. Page 43 and Exercise page 3, from an LP Originator workshop.
5. Page 17 of Appendix B, Documentation Matrix.

Comment 4

Mr. James D. McKay
Page 59 of 71
April 12, 2005

Gift Transfer Undocumented

The lender did not document the transfer of funds from the gift donor to the borrower.

Response

Broad Street is in the process of obtaining evidence of the gift transfer from the donor to the borrower. We will provide the OIG with a copy upon our receipt.

Comment 2

Mr. James D. McKay
Page 60 of 71
April 12, 2005

[REDACTED]
7329014647
495-6735938
LP Accept

Underwriting Deficiencies:

The lender did not adequately evaluate the borrowers' credit history. The lender did not provide adequate explanation for derogatory credit items noted on the borrowers' credit history, including accounts in collection status.

Response:

The loan received an "Accept" designation from Freddie Mac's Loan Prospector. Accordingly, per FHA and Freddie Mac if a file receives an Accept designation, the file has "Credit Warranties and Waivers" as noted on the LP feedback certificate. **Credit Warranty F0** on the feedback certificate states: "*Credit Warranty: Not required to determine that the borrower shows the willingness to pay.*" Additionally, FHA HOC in Denver and Santa Ana have hosted lender seminars in which they have provided guidance on this issue.

We properly relied upon the guidance provided by HUD staff.

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3. Page 2-5 of the HUD Handbook 4155.1 Rev 4 Chg 1.
4. Page 43 and Exercise page 3, from an LP Originator workshop.
5. Page 17 of Appendix B, Documentation Matrix.

Comment 2

Mr. James D. McKay
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April 12, 2005

We do, however, concur that the unpaid judgments should have been considered in the analysis and a requirement for them to be paid off.

Gift Transfer Undocumented

The lender did not document the transfer of funds from the gift donor to the borrower.

Response

Broad Street is in the process of obtaining evidence of the gift transfer from the donor to the borrower. We will provide the OIG with a copy upon our receipt.

Comment 2

Mr. James D. McKay
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April 12, 2005


7329012144
495-6192256
LP Accept

Underwriting Deficiencies:

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Response:

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We properly relied upon the guidance provided by HUD staff.

We are providing the following in support of the above statements:

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3. Page 2-5 of the HUD Handbook 4155.1 Rev 4 Chg 1.
4. Page 43 and Exercise page 3, from an LP Originator workshop.
5. Page 17 of Appendix B, Documentation Matrix.

Comment 2

Mr. James D. McKay
Page 63 of 71
April 12, 2005

Gift Transfer Undocumented

The lender did not document the transfer of funds from the gift donor to the borrower.

Response

Broad Street respectfully submits that the OIG is incorrect in its finding. Attached is a copy of the wire transfer of funds from the donor to the closing agent for the amount of the gift.

Comment 2

CONFIDENTIALITY NOTICE

The information contained in this facsimile or electronic message is confidential information intended for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or an employee or agent responsible for delivering this facsimile message to the intended recipient, you are hereby notified that any dissemination, or copying of this communication is strictly prohibited. If this message contains non-public personal information about any consumer or customer of the sender or intended recipient, you are further prohibited under penalty of law from using or disclosing the information to any third party by provisions of the federal Gramm-Leach-Bliley Act. If you have received this facsimile or electronic message in error, please immediately notify us by telephone and return or destroy the original message to assure that it is not read, copied, or distributed by others.

**DHI TITLE
COMPANY**

FAX COVER SHEET

DATE: 4/1/03
TO: Rosemary
COMPANY: _____
FAX NUMBER: 212-0495
FROM: Sign

DIRECT LINE: 210-582-0815

E-FAX # 1-866-289-3044

EMAIL: ljwhite@drhorton.com

MESSAGE:
Ref: 023950-04

211 North Loop 1604 East, Ste. 125, San Antonio, Texas 78232

Receipts and Disbursements Ledger
 Printed at 10:37 AM, April 1, 2005

Buyer/Borrower
 Seller
 Lender **Broad Street Mortgage Corp.**
 Closing Date **6/21/2002**
 GF Number **023950-04**
 Property Address **9007 Harbour Town, Selma TX 78154**
 Bank **NationsBank, N.A. - San Antonio Branch**

Open Date **5/28/2002**

Receipts

Trans ID	Payer	Description	Type of Funds	Date	Amount
023950-04-1	Broad Street Mortgage Corp.	Loan Amount	Wire	6/21/2002	\$120,318.04 C
023950-04-2	Buyer	Funds from Buyer	Check	6/21/2002	\$385.07 C
023950-04-3	Zion First National Bank	<u>The Buyers Fund</u>	Wire	6/21/2002	<u>\$8,000.00 C</u>
023950-04-4	Fieldstone Mortgage	ADD funds from lender	Wire	6/28/2002	\$344.00 C

Total receipts \$129,947.11

Disbursements

Check #	Payer	Date	Amount
38104	The Duyore Fund	Void Date: 6/28/2002 6/26/2002	\$9,500.00 V
	516	\$9,500.00	
38105	Polunsky & Beltel	6/26/2002	\$100.00 C
	1105 Document preparation	\$100.00	
38106	Maverick Land Surveying	6/26/2002	\$237.05 C
	1301 Survey	\$237.05	
38107	Selma's Forest Creek Homeowners Associat	6/26/2002	\$50.00 C
	112 Dues/\$120 p/yr (pd thru 12/02)	\$50.00	
38108	Rackley & Associates Real Estate	6/26/2002	\$3,892.47 C
	702 Commission Paid at Settlement	\$3,892.47	
38109	Arrest-n-Post	Stop Date: 6/7/2002 6/26/2002	\$70.42 S
	1302 Pest Inspection	\$70.42	
38110	Texas Select Lloyds Insurance Company	6/26/2002	\$465.00 C
	903 Hazard Insurance Premium	\$465.00	
38111	Travis Title Company	6/26/2002	\$1,548.32 C
	1106 Title Insurance	\$1,354.00	
	1111 Escrow fee	\$100.00	

495-619 2256 7329 012144

Mr. James D. McKay
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April 12, 2005

~~Los Angeles City~~
7329012335
495-6244162
LP Accept

Underwriting Deficiencies:

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Response:

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Mr. James D. McKay
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April 12, 2005

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Response

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Comment 2

HPK-UB-2UUB WED 11:52 AM FAX NO. P. 05
04/01/2005 FRI 18:10 FAX 2105310943 THOMAS ADKISSON ATTY @UUB/UUB

Oct-24-2002 12:50pm From:FUNDS WNW***EXT *Carroll* 2102205875 T-215 P.002/003 F-150
SND DATE: / / TRN:021024-001229

FNB PHONE ADVISE
SRCFED RPT# AMT 9,400.00 CURUSD
TEST: VAL: / / TYP:FTR MTP: FND: S CHG: DBN CON COMN CBLN

DBT ~~XXXXXXXXXX~~ ADV PHN
DEPT: 0020143 RTC: DEPT: 0020143 RTC:
ZIONS FIRST NATIONAL BANK TICOR TITLE AGENCY OF SAN ANTONIO
SALT LAKE CITY, UT ATTN: JAMIE SANDERS
2931 E. SOUTHCROSS BLVD.
SAN ANTONIO TEXAS 78223
SNDR REF NUM 021024105721M200 BNF /010429546 CH: BK?N
ORIG /071022388 TICOR TITLE AGENCY OF SAN ANTONIO
THE BUYERS FUND
313 EAST UNIVERSITY PARKWAY
OREM, UT 84058-
REF NUM
ORIG TO BNF INFO:
27397
FILE# 0204115885

{1100}02P N
{1110}10241312FT01
{1120}20021074K4QLA01C00037910241312FT01
{1510}1000
{1520}20021074L2LF281C000313
{2000}000000940000
{3100}124000954ZIONS BANK*
9 THOUSAND, 00 DOLLARS EVEN
Press SHIFT/RELEASE when advising is completed for the current message

G/F#020411588.SS

Mr. James D. McKay
Page 66 of 71
April 12, 2005

~~Information~~
7329014126
495-66604430
LP Accept

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Response:

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Response

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Comment 2

APR-06-2005 WED 11:55 AM

FAX NO.

P. 16

FIRST LOCKHART NATIONAL BANK

Rosemary

COMING WIRE TRANSFER

No. 015389

Date 7-3-03

Sender ABA: 0

[Redacted]

Name: Irwin U.B. FSB

Receiver ABA:

Receiving Bank: FIRST LOCKHART NATIONAL

AMOUNT: \$ 4,497.00

REF. NO.: 0102034123600001

By Order Of: (ORG) The buyers fund

UPC Code: CTR Intermediate Bank (IBK)

For Credit To (Beneficiary) (BNR): Caldwell Cty Abstract

Identification Type & No. Social Security No.

Address: PO Box 1480

Extra Instructions (OHI): HO 330 0318208

Notify or Messages (Bank Only) (BB):

Received By: [Signature] Wipe Tolls: [Signature]

P-127 C-1200 CUSTOMER'S COPY

CHECKING ACCOUNT DEPOSIT TICKET

FIRST-LOCKHART NATIONAL BANK
P.O. BOX 800
LOCKHART, TEXAS 78644-0800

MEMBER FDIC

Checks and other items are received for deposit subject to the provisions of the Uniform Commercial Code or any applicable collection agreement. Deposits may not be available for immediate withdrawal.

ACCOUNT NUMBER [Redacted] DATE 7-3-03

DEPOSITED TO THE ACCOUNT OF:
Caldwell County Abstract
PO Box 1480
Lockhart TX 78644-0480

CURRENCY/COIN		
CHECKS (List separately)		
WIRE	4,497	50
0313208		
(LESS CASH REG'D.)	(-)	
NET DEPOSIT	4,497	02
(LESS CASH REG'D.)		
SIGNATURE		
0		
00034 07/02/03 13:41 000-022 0000000427		
Check/ps Deposit	44,497.00	
HAVE A NICE DAY!!!		

Rosemary
210-212-0495

OIG Finding #2: Quality Control Plan

The OIG indicates that Broad Street's quality control plan did not meet HUD requirements and was not fully implemented. The lender did not require the detection and reporting of serious violations to HUD. Further, HUD indicates that the lender had not done reviews of defaulted loans with six or fewer payments. HUD indicates that Broad Street did not include an appraisal review in the plan. HUD indicates that officials disregarded or misinterpreted HUD requirements. HUD indicates that without an effective quality control plan, Broad Street allowed violations of HUD requirements to increase HUD's losses through defaults and foreclosures.

Broad Street's Comments

Respectfully, Broad Street disagrees with the OIG's conclusion that the Company's quality control plan did not meet HUD requirements and was not fully implemented. The Company has always been committed fully to quality control and strict compliance with HUD-FHA requirements. We provide herewith our response.

Finding: Detecting and Reporting Violations

Broad Street did not meet HUD's requirements for detecting and reporting serious violations. It did not select loans involving early loan defaults. As a result, it lacked assurance that serious violations were detected and reported.

Response:

- The Quality Control group of Fieldstone's Legal and Compliance Department audits a

Comment 3

Comment 3

Mr. James D. McKay
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April 12, 2005

randomly selected sample of 10% of the loans closed by Broad Street each month.

- Due to size of the monthly random closed loan selection, loans having early payment defaults may not be included in the random selection. Because loans having early payment defaults are taken very seriously, in addition to the 10% random sample, each and every loan identified on the "Neighborhood Watch" is audited as a "special audit".

Finding: Defaulted Loans with Six or Fewer Payment

Broad Street's quality control personnel did not review 11 of 12 loans we reviewed that defaulted early, within the first six payments. A Broad Street official said the lender was behind in completing delinquent loan audits.

Response:

- As stated above, Quality Control takes the review of loans having early payment defaults very seriously. To date all loans reviewed by the Office of Inspector General have also been reviewed by Fieldstone's Quality Control department. The department has reviewed all loans having early payment defaults identified on the "Neighborhood Watch" and is current through the March 2005 Excel download of loans identified on the "Neighborhood Watch".

Finding: Appraisal Review

Broad Street's plan did not require a review of the appraisal. As a result, Broad Street has no quality assurance of appraisals. Please see Attachment A included herewith.

Comment 3

Response:

Comment 3

- Please refer to Paragraph E. of “Section VII Production Audit: Re-verification of Appraised Value” of the January 2004 Edition of “The Quality Control Plan”. This section states the following:

“All loan files selected for review will have a desk review done on the property appraisal by the Quality Control Auditor.

In addition, 10% of the 10% sample will have a spot-check appraisal prepared by a qualified, state licensed or certified, independent appraiser. The spot-check appraisal may consist of either a new appraisal or a field review appraisal. At a minimum, the field review appraisal must include an exterior inspection of the property and the comparables as well as thorough analysis with emphasis on the accuracy of the factual data on the original appraisal report. The appraisal must be made by an appraiser other than the original appraiser.”

- Further, please refer to “Section XXIII Attachments” specifically, “HUD Quality Control Review”. This section states the following:

“Fieldstone will review either 1) 10% of all loans closed on a monthly basis; or 2) a random sample that provides 95% confidence level with 2% precision.

- the selection includes loan from: all branches
- from all authorized agents, loan correspondents
- from all loan officers, underwriters, appraisers

All loans, which go into default within the first six months, are reviewed.”

- Although it is not possible to select all loan correspondents, loan officers, underwriters and appraisers with every sample, an effort is made to select loans from each category as often as possible.

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Conclusion

Broad Street appreciates this opportunity to respond to the draft audit report findings. HUD remains our highly valued business partner in providing affordable home ownership opportunities to qualified low and moderate income families. We continue to provide such opportunities today, and will continue to do so in the future.

Broad Street has enjoyed a positive relationship with HUD and would like to resolve this matter in a spirit of full cooperation. The Company recognizes that there were some shortcomings in its performance and has taken corrective action to ensure that they will not recur. Broad Street respectfully submits, however, that no administrative action or civil money penalties against the Company are warranted, and that the audit report findings should be resolved with the Quality Assurance Division of the HUD Denver Homeownership Center.

Sincerely,

Cynthia L. Harkness
Senior Vice President – General Counsel
Fieldstone Mortgage Company

cc: Gerald Thompson, OIG
Michael Hall, OIG
Mitchel H. Kider, WBSK

OIG Evaluation of Auditee Comments

Comment 1 Minimum Investment Not Made. The essence of our finding is that the nonprofits are not providing a true gift to the buyer. The buyer has to repay the “gift,” including interest; the “gift” is simply being added to the price of the house. Other buyers that do not participate in the nonprofit program are being charged a lower price for the same house.

Contrary to Broad Street’s assertions, HUD has never approved the practice of raising the price of a house to cover downpayment assistance. The April 7, 1998 Office of General Counsel opinion dealt with the issue of sellers making contributions to nonprofit providers, and concluded that Nehemiah’s practice complies with HUD guidelines because the seller’s payment could not be identified as the direct source of the buyer’s downpayment. The same opinion quotes the HUD requirement that “No repayment of the gift may be expected or implied.” Our finding provides documentary evidence to show that buyers are in fact having to repay the “gift” through an increase in the price of the house. As such, there is no bona fide gift involved in these transactions, and the statutory minimum investment requirement is being circumvented. Broad Street states that “In some instances” the sellers increased the sales price to cover the fee and/or contribution that they paid to the nonprofit organization. However, our review found that this practice was the rule rather than the exception, occurring in 24 of 26 cases involving gifts from nonprofit entities. Broad Street’s comment that the appraisal supports the value of the property skirts the issue of the gift requirement. The sales price is not being raised because of any appraisal, but rather to cover the cost of the seller’s contribution to the nonprofit. Further, HUD requires that the maximum loan amount be calculated based on the lesser of the sales price or appraised value.

Comment 2 We concluded that the appraisal and credit borrower issues were secondary to the primary issue regarding gifts and minimum investment, and therefore revised the report to exclude these issues. For privacy act purposes, we redacted borrower names.

Comment 3 We revised our draft recommendations regarding finding 2. We acknowledge Broad Street’s statement that it has now reviewed the early payment defaults in our sample, it is current with such reviews through March 31, 2005, and that it has always been committed to quality control and strict compliance with HUD-FHA compliance. However, we believe the plan needs to contain provisions for reporting to HUD serious problems, if any, discovered during the quality control reviews, and more detail as to procedures for the quality control review of appraisals. In addition, better controls need to be in place to assure timely reviews of loans that default within 6 payments.

Appendix D

CRITERIA

Minimum Investment, Title 24, Code of Federal Regulations, 203.19

(a) At the time the mortgage is insured, the mortgagor shall have paid in cash or its equivalent the following minimum amount:

(1) In all cases (except those involving a veteran meeting the requirements of Sec. 203.18(b) or a disaster victim meeting the requirements of Sec. 203.18(e)), the minimum investment shall be at least 3 percent of the Commissioner's estimate of the cost of acquisition (excluding the amount of any one-time mortgage insurance premium payable in accordance with Sec. 203.280) or such other larger amount as the Commissioner may determine.

Due Diligence, Title 24, Code of Federal Regulations, 203.5(c)

(c) Underwriter due diligence. A Direct Endorsement mortgagee shall exercise the same level of care that it would exercise in obtaining and verifying information for a loan in which the mortgagee would be entirely dependent on the property as security to protect its investment. Mortgagee procedures that evidence such due diligence shall be incorporated as part of the quality control plan required under Sec. 202.5(h) of this chapter. The Secretary shall publish guidelines for Direct Endorsement underwriting procedures in a handbook, which shall be provided to all mortgagees approved for the Direct Endorsement procedure. Compliance with these guidelines is deemed to be the minimum standard of due diligence in underwriting mortgages.

Mortgage Calculation, Mortgagee Letter 98-29

...the property's sales price (or appraised value, if less) exclusive of any borrower-paid closing costs will be multiplied by a percentage that is determined by both the sales price (or value, if less) and the average closing cost for that State. This determines the maximum mortgage amount that FHA will insure if the mortgagor makes a cash investment of at least three percent into the property, which may include closing costs.

Maximum Mortgage, HUD Handbook 4155.1, "Mortgage Credit Analysis," Chapter 1, paragraph 1-7A and B

A. The seller (or other interested third parties such as real estate agents, builders, developers, etc., or a combination of parties) may contribute up to six percent of the property's sales price toward the buyer's actual closing costs, prepaid expenses, discount points, and other financing concessions. Contributions exceeding six percent of the sales price or exceeding the actual cost of prepaid expenses, discounts points, and other financing concessions will be treated as inducements to purchase, thereby reducing the amount of the mortgage. Closing costs normally paid by the borrower are considered contributions if paid by the seller. Inducements to purchase are described in paragraph B, below.

The six percent limitation also includes seller payment for permanent and temporary interest rate buydowns and other payment supplements, payments of mortgage interest for fixed rate mortgages and GPMs [graduated payment mortgages] only (but not principal), mortgage payment protection insurance, and payment of UFMIP [Up Front Mortgage Insurance Premium].

Fees typically paid by the seller under local or state law, or local custom, such as real estate commissions, charges for pest inspections, fees paid for trustees to release a deed of trust, etc., are not considered contributions. The dollar limit for seller contributions is calculated by using Attachment A on the HUD-92900-PUR /HUD-92900WS forms. Each dollar exceeding FHA's [Federal Housing Administration] six percent limit must be subtracted from the property's sales price before applying the appropriate LTV [loan-to-value] ratio.

B. Certain expenses (beyond those described above) paid on behalf of the borrower, as well as other inducements to purchase, result in a dollar-for-dollar reduction to the sales price before applying the appropriate LTV ratio. These inducements include decorating allowances, repair allowances, moving costs, and other costs as determined by the appropriate HOC [Home Ownership Center]. We also require dollar-for-dollar reductions to the sales price for excess rent credit (see 2-10 N), as well as for gift funds not meeting the requirements stated in Chapter 2.

Personal property items such as cars, boats, riding lawn mowers, furniture, televisions, etc., given by the seller to consummate the sale result in a reduction to the mortgage. The value of the item(s) must be deducted from the sales price and the appraised value of the property (if not already done so by the appraiser) before applying the LTV ratio. However, certain items, depending upon local custom or law, may be considered as part of the real estate transaction with no adjustment to the sales price or appraised value necessary. These items include ranges, refrigerators, dishwashers, washers, dryers, carpeting, window treatments, and other items as determined by the jurisdictional HOC. That office determines if these items affect value and are considered customary. Replacement of existing equipment or other realty items by the seller before closing, such as carpeting or air conditioners, does not require a value adjustment provided no cash allowance is given to the borrower.

In addition, if the seller or builder of the property agrees to pay any portion of the borrower's sales commission on the sale of the borrower's present residence, the amount paid by the seller or builder is an inducement to purchase and must be subtracted dollar for dollar from the sales price before the LTV ratio is applied. Similarly, a borrower not paying real estate commission on the sale of a present home constitutes a sales concession, if the real estate broker or agent is involved in both transactions and the seller of the property purchased by the borrower pays a real estate commission exceeding that typical for the area. In these situations, the amount paid by the seller above the normal real estate commission is considered an inducement to purchase and must be subtracted from the sales price of the property being purchased before applying the LTV ratio.

Mortgage Amount limitations when the Downpayment Assistance Provider is Also the Seller of the Property, Mortgagee Letter 2002-22, Section D.

In accordance with Section 528 of the National Housing Act, the combined loan-to-value (CLTV) or indebtedness may be affected when the downpayment assistance provider is also the seller. All sellers are permitted to pay the homebuyer's closing costs, prepaid expenses, and discount points up to an amount equaling six percent of the sales price; any amount above this

threshold results in a dollar-for dollar reduction to the loan amount. Similarly, if a governmental unit or nonprofit is providing a gift of equity from the sale of the property, there must be a dollar-for-dollar reduction to the sales price.

Gifts, HUD Handbook 4155.1, “Mortgage Credit Analysis,” Chapter 2, section 3, paragraph 2-10C

An outright gift of the cash investment is acceptable if the donor is the borrower’s relative, the borrower’s employer or labor union, a charitable organization, a governmental agency or public entity that has a program to provide homeownership assistance to low- and moderate-income families or first-time homebuyers, or a close friend with a clearly defined and documented interest in the borrower. The gift donor may not be a person or entity with an interest in the sale of the property, such as the seller, real estate agent or broker, builder, or any entity associated with them. Gifts from these sources are considered inducements to purchase and must be subtracted from the sales price. No repayment of the gift may be expected or implied. (As a rule, we are not concerned with how the donor obtains the gift funds provided they are not derived in any manner from a party to the sales transaction. Donors may borrow gift funds from any other acceptable source provided the mortgage borrowers are not obligors to any note to secure money borrowed to give the gift.) This rule also applies to properties of which the seller is a government agency selling foreclosed properties, such as the Veterans Administration or Rural Housing Services. Only family members may provide equity credit as a gift on a property being sold to other family members. These restrictions on gifts and equity credit may be waived by the jurisdictional HOC provided that the seller is contributing to or operating an acceptable affordable housing program.

The lender must document the gift funds by obtaining a gift letter, signed by the donor and borrower, that specifies the dollar amount of the gift, states that no repayment is required, shows the donor’s name, address, telephone number, and states the nature of the donor’s relationship to the borrower. In addition, the lender must document the transfer of funds from the donor to the borrower, as follows:

If the gift funds are in the homebuyer’s bank account, the lender must document the transfer of the funds from the donor to the homebuyer by obtaining a copy of the canceled check or other withdrawal document showing that the withdrawal is from the donor’s account. The homebuyer’s deposit slip and bank statement that shows the deposit is also required.

If the gift funds are to be provided at closing:

- a. If the transfer of the gift funds is by certified check made on the donor’s account, the lender must obtain a bank statement showing the withdrawal from the donor’s account, as well as a copy of the certified check.
- b. If the donor purchased a cashier’s check, money order, official check, or any other type of bank check as a means of transferring the gift funds, the donor must provide a withdrawal document or canceled check for the amount of the gift, showing that the funds came from the donor’s personal account. If the donor borrowed the gift funds and cannot provide documentation from the bank or other savings account, the donor must provide written evidence that those funds were borrowed from an acceptable source, i.e., not from a party to

the transaction, including the lender. “Cash on hand” is not an acceptable source of the donor’s gift funds.

Regardless of when the gift funds are made available to the homebuyer, the lender must be able to determine that the gift funds ultimately were not provided from an unacceptable source and were indeed the donor’s own funds. When the transfer occurs at closing, the lender remains responsible for obtaining verification that the closing agent received funds from the donor for the amount of the purported gift and that those funds came from an acceptable source.

NOTE: FHA (Federal Housing Administration) does not “approve” down payment assistance programs in the form of gifts administered by charitable organizations (i.e., nonprofits). Mortgage lenders are responsible for assuring that the gift to the homebuyer from the charitable organization meets the appropriate FHA requirements and the transfer of funds is properly documented. In addition, FHA does not allow nonprofit entities to provide gifts to homebuyers for the purpose of paying off installment loans, credit cards, collections, judgments, and similar debts.

Gifts, MORTGAGEE LETTER 00-28

As part of HUD’s recently announced initiatives to address predatory lending practices targeted at FHA borrowers, it has revised its procedures for verifying the transfer of gift funds from private individual donors to homebuyers, as well as the required contents of the gift letter itself. These reforms are intended to ensure to the greatest extent possible that the gift funds were in fact the donor’s own and are not derived from an unacceptable source. The donor must be able to furnish conclusive evidence that the funds given to the homebuyer came from the donor’s own funds and thus, were not provided directly or indirectly by the seller, real estate agent, builder, or any other entity with an interest in the sales transaction.

The gift letter, as always, must specify the dollar amount given, be signed by the donor and the borrower, state that no repayment is required, and show the donor’s name, address, telephone number, and relationship to the borrower. It now must also contain language asserting that the funds given to the homebuyer were not made available to the donor from any person or entity with an interest in the sale of the property including the seller, real estate agent or broker, builder, loan officer, or any entity associated with them.

In addition to the existing instructions regarding gift funds outlined in the mortgage credit analysis handbook (HUD 4155.1, REV-4, CHG 1), the verification process described below must be met.

If the gift funds are in the homebuyer’s account:

- The lender must document the transfer of the funds from the donor to the homebuyer by obtaining a copy of the canceled check or other withdrawal document showing the withdrawal is from the donor’s personal account, along with the homebuyer’s deposit slip or bank statement that shows the deposit.

If the gift funds are to be provided at closing:

- If the transfer of the gift funds is by certified check made on the donor's account, the lender must obtain a bank statement showing the withdrawal from the donor's personal account as well as a copy of the certified check.
- If the donor purchased a cashier's check, money order, official check, or any other type of bank check as a means of transferring the gift funds, then the donor must provide a withdrawal document or canceled check for the amount of the gift showing the funds came from the donor's personal account. If the donor borrowed the gift funds and thus, cannot provide the documentation from his or her bank or other savings account, the donor must provide evidence that those funds were borrowed from an acceptable source, i.e., not from a party to the transaction including the mortgage lender. "Cash on hand" is not an acceptable source of the donor's gift funds.

Regardless of when the gift funds are made available to the homebuyer, the lender must be able to determine that the gift funds were not ultimately provided from an unacceptable source and were indeed the donor's own funds. When the transfer occurs at closing, the lender remains responsible for obtaining verification the closing agent received funds from the donor for the amount of the purported gift.

When FHA reviews the performance of a lender on loans where gift funds were provided for the downpayment, it must be able to trace the gift funds from the donor to the homebuyer. In cases in which irregularities occurred with respect to the gift as a result of a lender not complying with the Department's requirements, there may be grounds for administrative action and the lender may be referred to the Mortgagee Review Board for the imposition of administrative sanctions or civil money penalties.

Quality Control Plan – HUD Handbook 4060-1 GHG-1

Paragraph 6-2 – Mortgagees must design programs that meet these basic goals:

- Assure compliance with HUD's and the mortgagee's own origination or servicing requirements throughout its operations.
- Protect the mortgagee and HUD from unacceptable risk.
- Guard against errors, omissions, and fraud.
- Assure swift and appropriate corrective action.

Failure to comply with specific Quality Control requirements may result in sanctions and the imposition of Civil Money Penalties by the Mortgagee review Board (MRB).

Paragraph 6-6. Basic Requirements for Quality Control of Single Family Production

D. Early Payment Defaults. In addition to the loans selected for routine quality control reviews, mortgagees must review all loans going into default within the first six payments. As defined here, early payment defaults are loans that become 60 days past due.

E. 2. Credit Documentation Reverification. Documents contained in the loan file should be checked for sufficiency and subjected to written reverification. Examples of items that must be reverified include but are not limited to, the mortgagor's employment or other income, deposits, gift letters, alternate credit sources, and other sources of funds. Sources of funds must be acceptable as well as verified.

E.3. Appraisals. A desk review of the property appraisal must be performed on all loans chosen for a Quality Control Review except streamline refinances and HUD Real Estate Owned (REO) sales. The desk review must include a review of the appraisal data, the validity of the comparables, the value conclusion, any changes made by the underwriter and the overall quality of the appraisal.

Mortgagees are expected to perform field reviews on 10 percent of the loans selected during the sampling process....