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Office of Inspector General

Investigative Report

140617-01

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Chris Hirst, Inspector General

Enhancing Public Trust in Florida's Affordable Housing

**Office of Inspector General
Investigative Report
Case Number 140617-01**

INTRODUCTION

On May 29, 2014, the Florida Housing Finance Corporation (Florida Housing) Office of Inspector General (OIG) met with and received information from the Florida Housing Special Programs Administrator (Administrator) regarding improprieties committed by employees of one of Florida Housing's National Foreclosure Mitigation Counseling Program¹ (NFMCP) advisor agencies, Family Foundations of Jacksonville, Florida.

Family Foundations received information of alleged improprieties by four employees. This information came to their attention through one of the employees involved in the alleged improprieties. The employee had initially contacted their personal attorney who communicated the allegations on the evening of Thursday, March 20, 2014, to the attorney representing Family Foundations, who then contacted Dawn Lockhart, President of Family Foundations, on Monday, March 24, 2014.

Ms. Lockhart requested that their (Family Foundations) attorney investigate the matter and the investigation began on March 24, 2014. Upon completion of the investigation a report (Exhibit #1) dated April 17, 2014, was issued to Ms. Lockhart which concluded that:

- "Falsified records for services not provided had been created and submitted for payment." and
- "The executive management at Family Foundations had no knowledge of the fraudulent actions."

The investigation resulted in the following recommendations:

- Terminate employees participating in the falsification of records;
 - Family Foundations concurred and "separated all employees involved in the in the falsification of records from employment on April 4, 2014";
- Refund payments received for services that were not provided; and
 - Family Foundations concurred and Florida Housing was reimbursed for the payment of services that were not provided;
- Independent monitoring of programs for the opportunity for fraud and the effectiveness of fraud detection and prevention controls.
 - Family Foundations concurred "that additional fraud detection and prevention controls should be implemented".

Of the four individuals involved in the NFMCP improprieties, two also provided Florida Hardest Hit Fund² (HHF) counseling services for Florida Housing. During the May 29, 2014, meeting between the Administrator and the OIG it was stated by the Administrator that Family Foundations made no indication to Florida Housing about the possibility of improprieties, by the two individuals, on the HHF side.

¹ The National Foreclosure Mitigation Counseling (NFMCP) program was launched in December 2007 with funds appropriated by Congress to address the nationwide foreclosure crisis by dramatically increasing the availability of housing counseling for families at risk of foreclosure.

² Florida Housing was directed by United States Treasury (Treasury) to create and administer foreclosure prevention assistance programs that address the unique issues of our state. Treasury requires that Florida use a portion of these funds specifically for targeted unemployment programs that provide temporary assistance to eligible homeowners.

However, due to the possibility that similar improprieties could have been committed on the HHF side, by the two former employees, the OIG initiated an investigation based on the information provided.

ALLEGATIONS

Allegation 1

A Family Foundations former employee alleged that a department manager and three other employees, including himself, of the Client Services department falsified records for services not provided in the national foreclosure mitigation counseling program and submitted those records to Florida Housing for payment.

If supported, the allegation would constitute a violation of the Federal False Claims Act, 31 U.S.C SS 3729-3733.

Allegation 2

Two former employees from Family Foundations allegedly could have falsified records for services not provided in the hardest hit fund counseling program and could have submitted those records to Florida Housing for payment.

If supported, the allegation would constitute a violation of the Federal False Claims Act, 31 U.S.C SS 3729-3733.

EXECUTIVE SUMMARY

From May 29, 2014, to September 15, 2014, OIG staff conducted interviews and reviewed significant documentation/records as it relates to the allegations. On June 10, 2014, and per HHF compliance requirements, the OIG staff notified (Exhibit #2) the U. S. Treasury's Office of Inspector General and subsequently provided a copy of the Family Foundations investigative report (Exhibit #1) dated April 17, 2014. After reviewing all relevant information pertaining to the allegations, the OIG staff determined that the first allegation regarding the four former employees creating false records for counseling services not provided and submitted for payment was supported. The second allegation regarding two of the former employees creating false records for HHF counseling services not provided and submitted for payment was not supported.

COMPLAINANT INTERVIEW

On May 29, 2014, the Florida Housing OIG met with Florida Housing Special Programs Administrator Rob Deardruff, Special Programs Manager Nicole Everett, and HHF Compliance Officer Matt Jugenheimer. The following represents actual and paraphrased statements made by Mr. Deardruff and Mr. Jugenheimer:

- Florida Housing's NFMCP funding comes from NeighborWorks³ via the U.S. Treasury and are for foreclosure counseling services. Treasury provides funds directly to the HHF Program.
- Of the four individuals involved, two also provided HHF counseling services and all have since been terminated by Family Foundations.
- Mr. Deardruff stated, that in the case of his program, the employees did not make up fictitious names of clients served but inflated the number of times they communicated with the client on the telephone. Family Foundations was compensated by the number of times they conversed with the client.
- Family Foundations did not communicate to HHF about the individuals that were terminated nor did they mention any possibility of fraudulent activities in the counseling services that they provided to clients through HHF.

³ On December 26, 2007 legislation was enacted authorizing \$180 million for a NFMCP Program. Congress selected NeighborWorks America (as authorized by the Neighborhood Reinvestment Corporation Act, 42 U.S.C.8101-8107) to administer the Program.

- At this time, there is no evidence to support an allegation of fraud being committed by Family Foundations employees on the HHF side.
- In March 2013, underwriters⁴ started reviewing the closure of all accounts due to the U.S. Treasury's desire for 100% oversight. Mr. Jugenheimer stated that if fraud were to have occurred, it would have likely taken place on accounts closed before March 2013.

WITNESS INTERVIEWS

On June 6, 2014, a phone interview of attorney G. Alan Howard, counsel to Family Foundations, was conducted by the OIG. A copy of the documentation and evidence from his investigation was requested in order to gain a better understanding of the employee's methods for committing the fraud. The following represents actual and paraphrased statements made by Mr. Howard:

Mr. Howard stated that he considered the interview notes to fall under attorney-client privilege and therefore he could not fulfill the request for copies of them. He stated that any request for the interview notes should go to his client, Ms. Lockhart. He did provide details regarding the interviews and answered the interview questions.

Mr. Howard explained that the interviews with the employees were not tape recorded and that all were conducted by him with Ms. Lockhart, in attendance.

The four employees involved worked in the NFMCP unit of Family Foundations:

- Two employees were counselors (culpable negligence⁵)
 - One was an employee who falsified records and then raised the issue to their personal attorney
 - One was an employee who also falsified records
- One employee was in a clerical position (tainted⁶)
- One employee was a supervisor (culpable negligence)

In the interviews, the employees claimed that the motive for the falsification of the records was job preservation. They stated that in the early rounds of NFMCP funding, there were plenty of clients to be serviced. Mr. Howard stated that they told him, beginning in early 2013, the number of clients diminished considerably and late into the 3rd and 4th quarters they were not hitting their numbers. The actual investigative report refers to "Falsified records for services not provided had been submitted for payment, of which the preferred method was to document the services not provided as Round 7⁷ counseling sessions". The employees felt that if the number of clients was dwindling management may cut back on positions, so they felt it necessary to inflate the numbers to show their worth. Mr. Howard stated that the Family Foundations staff consists of approximately 20 people.

The OIG asked Mr. Howard if there was any way the employees could have also been motivated by money (e.g. additional compensation for achieving or going beyond a quota). He stated money was not an incentive offered by Family Foundations and he was informed, per Family Foundations Chief

⁴ Underwriting refers to the process that a financial service provider (bank, insurer, investment house) uses to assess the eligibility of a customer to receive their products (equity capital, insurance, mortgage, or credit).

⁵ As stated by Mr. Howard in the interview. Under Florida Law, "Culpable Negligence" is a serious criminal offense that may be classified as a misdemeanor or felony. Culpable negligence is a charge that assigns criminal liability for gross acts of negligence that expose others to harm or the threat of harm.

⁶ The individual had knowledge of the impropriety but did not directly participate.

⁷ On April 15, 2013, NeighborWorks America announced that \$70.1 million has been awarded to 30 state housing finance agencies (HFAs), 17 HUD-approved housing counseling intermediaries, and 72 community-based NeighborWorks organizations to provide counseling to families and individuals facing the threat of foreclosure.

Financial Officer Doug Pickett, that no monies could be gained by the falsification of the records. Mr. Howard also stated that he asked the employees if the scope of the falsification went beyond NFMC counseling. He stated they said it did not. The interview with Mr. Howard was then concluded.

On June 16, 2014, a phone interview of Dawn Lockhart, President of Family Foundations, was conducted by the OIG. A copy of the documentation and evidence from Mr. Howard's investigation was requested in order to gain a better understanding of the employee's methods for committing the fraud. The following represents the actual and paraphrased statements by Ms. Lockhart:

The OIG staff explained to Ms. Lockhart that in the spirit of cooperation and in order to perform due diligence, the OIG was requesting copies of her attorney's documents (interviews and statistical sampling). It was also stated to her that the OIG originally requested the documentation from her attorney but he claimed attorney-client privilege. Furthermore, based on guidance from Florida Housing's legal counsel, she could waive that right and request that the documents be provided to the OIG.

Ms. Lockhart stated that she had concerns in providing the requested documentation. Her primary concern was that the waiver of confidentiality and subsequent release to the OIG would make the documentation public record and she did not want that to happen. The interview was concluded with OIG staff stating for the record that, at this time, she would not be providing the requested documents.

SUBJECT INTERVIEWS

The OIG attempted to contact each of the four subjects with their last known contact information provided by Family Foundations.

For the first subject, on 6/16/15, a call was made to the phone number provided; however, the number was disconnected and no longer in service. Subsequently, an email was also sent on 6/16/15, which has not yielded a response.

For the second subject, on 6/16/15, a voicemail message was left and to date, a return call has not been received. An email address was not provided.

For the third subject, on 7/2/15, a voicemail message was left and to date, a return call has not been received. An email address was not provided.

For the fourth subject, on 7/2/15, a voicemail message was left and to date, a return call has not been received. An email address was not provided.

DOCUMENTATION/RECORDS ANALYSIS

In order to determine if improprieties occurred, the OIG, after consultation with the HHF Compliance Manager, reviewed a sampling of HHF accounts serviced by the two suspected employees as it pertained to the second allegation. Of the accounts sampled, there was no activity shown to support an allegation of fraud.

FINDINGS/CONCLUSIONS

Allegation 1

The allegation made by a former employee that four employees including himself, who worked in the national foreclosure mitigation counseling program unit at Family Foundations, located in Jacksonville, Florida and a contractor of Florida Housing, falsified records for services not provided and submitted those records to Florida Housing for payment. The employee's allegation, communicated via the employee's personal attorney to a Family Foundations attorney, was investigated by the Family Foundations attorney and resulted in the following conclusions:

- "Falsified records for services not provided had been created and submitted for payment." and
- "The executive management at Family Foundations had no knowledge of the fraudulent actions."

The allegation is supported. The finding was based on the admission of the employees and on the Family Foundations attorney's investigative report.

Allegation 2

It is alleged that two employees from Family Foundations could have falsified records for services not provided in the hardest hit fund counseling program and could have submitted those records to Florida Housing for payment.

The allegation was not supported. The finding was based on the results of the OIG review that showed no indicators of fraud.

In accordance with Section 20.055(6)(c), F.S., on June 10 2014, this investigation was coordinated with the U. S. Department of the Treasury for a possible violation of the Federal False Claims Act, 31 U.S.C SS 3729-3733. On April 16, 2015 the U.S. Attorney's Office for the Middle District of Florida issued a letter to the U.S. Department of the Treasury declining the matter for criminal prosecution. The reasons stated for declining prosecution were that "the matter was self-reported, the full amount of funds have since been paid back to Florida Housing, and all individuals involved had their employment terminated." A copy of the letter was provided to Florida Housing (Exhibit #3). On April 20, 2015, Florida Housing received the letter stating that they would not initiate a criminal investigation.

A copy of this report was provided to each of the four previous employees of Family Foundations on August 24, 2015, in compliance with Section 20.055(6)(e), Florida Statutes, for a response. There was no response received from any of the four previous employees/subjects.

INSPECTOR GENERAL COMMENTS

It is recommended that Family Foundations implement the controls of Recommendation #3, from the *National Foreclosure Mitigation Counseling Program Review* investigative report, as soon as possible. It is also recommended that Family Foundations provide Florida Housing with a current status update on the progress of the implementation and status updates, as appropriate, until the implementation is completed. The recommendation states:


3. *"Independently monitor programs for the opportunity for fraud and the effectiveness of fraud-detection and prevention controls."*

Management concurs with our recommendation that additional fraud detection and prevention controls should be implemented, including segregating the program compliance function from the operational area and establishing other quality control monitoring and fraud detection procedures. We recognize that management

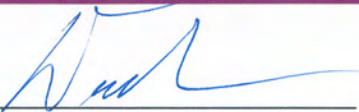
override and employee collusion can effectively circumvent internal controls as was the situation with this fraud program.”

CERTIFICATIONS

This investigation was conducted in compliance with the “Quality Standards for Investigations” found within the Principles and Standards for the Office of Inspector General.


Name, Title, Office of Inspector General

APPROVALS


David Merck
Investigator


Chris Hirst
Inspector General


Date


Date