JUSTICE NEWS

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE Tuesday, August 8, 2017

PHH Agrees to Pay Over $74 Million to Resolve Alleged False Claims Act Liability Arising from Mortgage Lending

PHH Corp. PHH Mortgage Corp. and PHH Home Loans (collectively, PHH) have agreed to pay the United States $74,453,802 to resolve allegations that they violated the False Claims Act by knowingly originating and underwriting mortgage loans insured by the U.S. Department of Housing and Urban Development's (HUD) Federal Housing Administration (FHA), guaranteed by the United States Department of Veterans Affairs (VA), and purchased by the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac") that did not meet applicable requirements, the Justice Department announced today. PHH is headquartered in Mount Laurel, New Jersey, and PHH Home Loans operates in Edina, Minnesota. PHH has agreed to pay $65 million to resolve the FHA allegations and $9.45 million to resolve the VA and FHFA allegations.

"Government mortgage programs designed to assist homeowners — including programs offered by the FHA, VA, Fannie Mae and Freddie Mac — depend on lenders to approve only eligible loans," said Acting Assistant Attorney General Chad A. Readler, head of the Justice Department's Civil Division. "The Department has and will continue to hold accountable lenders that knowingly cause the government to guarantee, insure, or purchase loans that are materially deficient and put both the homeowner and the taxpayers at risk."

"PHH submitted defective loans for government insurance, and homeowners and taxpayers paid the price. This significant resolution helps rectify the misconduct by returning more than $74 million in wrongfully claimed funds to the government," said Acting U.S. Attorney for the District of Minnesota Gregory Brooker. "I commend the efforts of this Office's Civil Division in reaching a successful resolution."

"This settlement requires PHH to pay back to the taxpayers of the United States millions of dollars in loans that never should have been made," Acting U.S. Attorney William E. Fitzpatrick for the District of New Jersey said. "By failing to ensure the creditworthiness of borrowers and otherwise failing to make sure the loans met HUD underwriting requirements, loans were insured by FHA that should not have been."

"By failing to comply with FHA regulations, PHH put taxpayers and borrowers at risk of sustaining significant financial losses," stated Acting U.S. Attorney Benjamin G. Greenberg. "This case and the resulting $75 million dollar settlement demonstrate that U.S. Attorney's Offices and our investigative partners across the country are committed to holding lenders accountable who knowingly submit unqualified loans and compromise needed governmental programs."

"For government mortgage programs to assist homeowners but not take on ill-advised risk, all participants in the mortgage lending process must provide true and complete information," stated Bridget M. Rohde, Acting United States Attorney for the Eastern District of New York. "Today's settlement with PHH demonstrates our continuing commitment to requiring such integrity in the process."

The settlements announced today resolve allegations that PHH failed to comply with certain FHA, VA, Fannie Mae and Freddie Mac origination, underwriting, and quality control requirements.

Since at least January 2006, PHH has participated as a Direct Endorsement lender (DEL) in the FHA insurance program. A DEL has the authority to originate, underwrite, and endorse mortgages for FHA insurance. If a DEL approves a mortgage loan for FHA insurance and the loan later defaults, the holder of the loan may submit an insurance claim to HUD, FHA's parent agency, for the losses resulting from the defaulted loan. Under the DEL program, the FHA does not review a loan before it is endorsed for FHA insurance for compliance with FHA's credit and eligibility standards, but instead relies on the efforts of the DEL to verify compliance. DELs are therefore required to follow program rules designed to ensure that they are properly underwriting and certifying mortgages for FHA insurance.

As part of the settlement, PHH admitted to the following facts concerning the FHA loans:

Between Jan. 1, 2006, and Dec. 31, 2011, it certified for FHA insurance mortgage loans that did not meet HUD underwriting requirements and did not adhere to FHA's self-reporting requirements. Examples of loan defects that PHH admitted resulted in loans being ineligible for FHA mortgage insurance included:

- Failing to document the borrowers' creditworthiness, including paystubs, verification of employment, proper credit reports, and verification of the borrowers' earnest money deposit and funds to close.
- Failing to document the borrower's claimed net equity in a prior residence or obtain documentation showing that the borrower had paid off significant debts. Including these debts in the borrower's liabilities resulted in the borrower exceeding HUD's debt-to-income ratio requirements for FHA-insured loans.
- Insuring a loan for FHA mortgage insurance even though the borrower did not meet HUD's minimum statutory investment for the loan.

In 2007, PHH audited a targeted sample of government loans for closing or pre-insuring requirements and found that its "percent accurate" did not exceed 50 percent during 2007. Since at least 2006, HUD has required self-reporting of material violations of FHA requirements. However, between Jan. 1, 2006, and Dec. 31, 2011, PHH Home Loans did not self-report any loans to HUD; rather, PHH Home Loans did not self-report any loans to HUD until 2013, after the United States commenced its investigation resulting in this settlement.

As a result of PHH's conduct and omissions, PHH admitted, HUD insured loans endorsed by PHH that were not eligible for FHA mortgage insurance under the DEL program, and that HUD would not otherwise have insured. It admitted that HUD subsequently incurred substantial losses when it paid insurance claims on those loans.

In addition, from at least 2005 to 2012, PHH was a VA approved lender, originating and underwriting mortgage loans and obtaining VA loan guarantees. The VA helps Servicemembers, Veterans, and eligible surviving spouses become homeowners by guaranteeing a portion of home loans. VA home loans are provided by certain pre-approved private lenders, including banks and mortgage companies. By guaranteeing a portion of the loan, the VA enables the lender to provide Servicemembers, Veterans, and eligible surviving spouses with loan terms that are more favorable than would otherwise be available in the marketplace. In order to qualify for a VA guarantee, borrowers must comply with VA loan requirements. The settlement resolves the United States' claims and potential claims that PHH originated loans that it submitted for guarantee by the VA that did not meet the VA's requirements.

Also from at least 2009 to 2013, PHH sold mortgage loans to Fannie Mae and Freddie Mac. Congress created the two entities to provide stability and liquidity in the secondary housing market and established the Federal Housing Finance Agency ("FHFA") to supervise, regulate, and oversee Fannie Mae and Freddie Mac, as well as the Federal Home Loan Bank System. Since 2008, in response to the substantial deterioration in the housing markets that severely damaged Fannie Mae and Freddie Mac's financial condition, Fannie Mae and Freddie Mac have been operating under a government conservatorship. The settlement resolves the United States' contentions that PHH originated and sold loans to the Freddie Mac and Fannie Mae that did not meet their requirements.

"This case demonstrates HUD's resolve in protecting the integrity of its mortgage insurance programs for the benefit of all Americans, and in particular, first time homebuyers," said Dane Narode, HUD's Associate General Counsel for Program Enforcement. "We are gratified that PHH has accepted responsibility for its actions."

"This settlement resolves allegations of reckless origination and underwriting of VA guaranteed mortgage loans," said Michael J. Missal, Inspector General, for the Office of Inspector General for the Department of Veterans Affairs (VA OIG). "It sends a clear message that the VA OIG will aggressively protect the integrity of this crucial program which helps so many of our veterans buy, build, or repair their homes. I would also like to thank the U.S. Attorney's Offices for partnering with us to achieve this significant result."

Some of the allegations resolved by these settlements included in a whistleblower lawsuit filed under the False Claims Act by a former employee of PHH, Mary Bozzelli against PHH Corp. and PHH Mortgage Corp. Under the False Claims Act, private citizens can sue on behalf of the government and share in any recovery. Ms. Bozzelli will receive $9,067,377.33 from the settlements.

The settlements were the result of joint investigations conducted by HUD, the HUD Office of Inspector General, the Veterans Administration's Office of Inspector General, the FHFA Office of Inspector General, the Department of Justice's Civil Division, and the U.S. Attorney's Offices for the District of Minnesota, District of New Jersey, Southern District of Florida, and Eastern District of New York. The qui tam action is captioned United States ex rel. Mary Bozzelli v. PHH Mortgage Corporation and PHH Corporation, 13-cv-3084 (E.D.N.Y.). The claims asserted against PHH are allegations only, and there has been no determination of liability.

Attachment(s):
Download Settlement Agreement EDNY
Download Settlement Agreement MN

Topic(s):
False Claims Act

Component(s):
Civil Division
USAO - Florida, Southern
USAO - Minnesota
USAO - New Jersey
USAO - New York, Eastern

Press Release Number:
17-885

Updated August 8, 2017