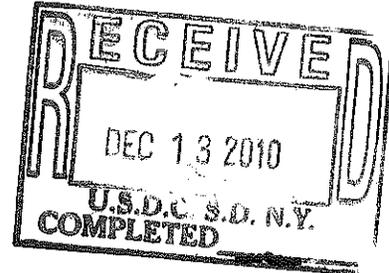


JUDGE CASTEL

10 CV 9280

PREET BHARARA
United States Attorney
By: LI YU

CRISTINE IRVIN PHILLIPS
Assistant United States Attorneys
86 Chambers Street, 3rd Fl.
New York, New York 10007
Tel: (212) 637-2734/2696
Fax: (212) 637-2686/2702
Li.Yu@usdoj.gov
Cristine.Phillips@usdoj.gov



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

— v. —

BUY-A-HOME, LLC; METROPOLITAN HOUSING,
LLC; GRAMERCY FUNDING GROUP LTD; MITCHELL
COHEN; CAMBRIDGE HOME CAPITAL, LLC; SETH
KRAMER; CRAIG HYMAN; SETH LAPIDUS;
JACQUELINE DERRELL; CAMBRIDGE FUNDING
GROUP, LTD.; JAMES J. GOLDBERG, *d/b/a* JJG
REAL ESTATE APPRAISAL SERVICES; PREMIER
APPRAISAL SERVICE; WILLIAM BUCKLEY; and
ROBERT MICHELINE *d/b/a* P&M APPRAISALS,

Defendants.
-----X

10 Civ. _____

COMPLAINT

JURY TRIAL
REQUESTED

Plaintiff, the United States of America, by its attorney, Preet Bharara, United States Attorney for the Southern District of New York, alleges upon information and belief as follows:

INTRODUCTION

1. This is a civil action by the United States against residential property sellers, mortgage lenders, and appraisers who participated in a series of mortgage

fraud schemes to orchestrate at least seventeen flip sales of homes, located in Bronx, Westchester, and other counties in the New York area, at inflated prices and to buyers who could not afford such homes. To obtain mortgage financing for those fraudulent flip sales, defendants created false documents and inflated appraisals and submitted these false records to the United States Department of Housing and Urban Development (“HUD”) and to subsidiaries of two financial institutions. This action seeks civil penalties under the Financial Institutions Reform, Recovery and Enforcement Act, 12 U.S.C. § 1833a (“FIRREA”); treble damages and civil penalties under the False Claims Act (“FCA”), 31 U.S.C. §§ 3729-33; and injunctive relief under the Fraud Injunction Statute, 18 U.S.C. § 1345.

2. Defendants’ frauds operated by abusing the positions of trust that HUD direct endorser lenders, such as defendant Cambridge Home Capital, LLC (“Cambridge”), and HUD Roster Appraisers, such as defendant James J. Goldberg, occupied within HUD’s mortgage insurance program. It was the obligation of those lenders and appraisers to ensure that HUD would only insure mortgage loans that met HUD requirements. Specifically, direct endorsers had the responsibility to ascertain that a mortgage loan to be insured by HUD in fact met the requirements for HUD insurance. Similarly, it was the duty of a HUD-approved Roster Appraiser to refrain from “hitting the numbers” pre-determined by a seller or a lender. However, Cambridge and the appraiser defendants abused their positions of trust — instead of meeting their obligations to HUD, they conspired with flip sellers to secure HUD-insured loans by creating and submitting fraudulent documents, inflated appraisals, and false certifications.

3. Defendants' mortgage fraud scheme typically proceeded in four steps. First, defendant Mitchell Cohen, the mastermind behind the schemes, bought up properties for resale, using three entities he controlled – defendants Buy a Home, LLC (“Buy-a-Home”), Gramercy Funding Ltd. (“Gramercy”), and Metropolitan Housing, LLC (“Metropolitan”). But, instead of paying for renovations that would enhance the value of these properties, Cohen directed sales efforts at inexperienced home-buyers, convincing them to buy the properties from him at inflated prices – as much as 60% more than what Cohen had paid just two or three months prior.

4. Cohen relied on three means to induce the buyers to accept his inflated prices. First, Cohen misled buyers into underestimating the true costs of home ownership. For example, to sell a home on Newark Avenue in Staten Island, Cohen and Buy-a-Home told buyers that they could offset the monthly mortgage payments with \$800 in rental income, when, in fact, that home was a single-family unit and did not have an apartment for rent. *See infra* at ¶¶ 118-120. Similarly, to influence inexperienced home-buyers to purchase a home on Nicholas Avenue in Staten Island, Cohen directed Buy-a-Home sales agents to understate the monthly cost of owning that property by \$800. *See infra* at ¶¶ 189–191. Second, to induce buyers to purchase his properties, Cohen also paid off their personal debts or promised to make mortgage payments on their behalf. For example, in connection with selling a home on 116th Street in Queens, Buy-a-Home provided \$6,500 to Cambridge to pay off the buyers' pre-existing debts to creditors such as Cingular and Capital One. *See infra* at ¶¶ 98–103. Further, in connection with selling a home on Newark Avenue, Cohen promised the buyers that he would make their mortgage payments for the

first five months. *See infra* at ¶¶ 313–314. Third, Cohen invariably induced buyers to purchase his properties at inflated prices by arranging to pay almost all of the down payment and closing costs. In other words, buyers typically contributed nothing, or a nominal amount, to purchase properties priced at more than \$300,000 or \$400,000. *See, e.g., infra* at ¶¶ 230–231, 438–450.

5. As step two in defendants’ frauds, *i.e.*, after Cohen had duped inexperienced buyers into agreeing to purchase a home from him at an inflated price, Cambridge, a HUD-approved direct endorser, arranged financing for buyers to consummate the fraudulent flip sale. As a HUD direct endorser, Cambridge was delegated the authority to endorse mortgage loans for HUD insurance, and it had the corresponding duty to verify whether loans met HUD requirements. *See infra* at ¶¶ 39–58. Cambridge, however, had a corrupt agreement with Cohen that it would abuse its direct endorser status and obtain HUD insurance for the mortgage loans to finance Cohen’s flip sales – irrespective of whether they met HUD requirements.

6. In furtherance of defendants’ fraudulent schemes, Cambridge created false records to make buyers appear more credit-worthy than they were and to hide Cohen’s payoffs of the buyers’ personal debts from HUD and from financial institutions. Specifically, to produce the appearance of greater credit-worthiness, Cambridge created false records to inflate buyers’ incomes or to understate their debts. For example, to facilitate the flip sale of a home on Beach 46th Street in Far Rockaway, Cambridge falsified the occupation of one buyer – from being a “security guard” to being a “head chef” at restaurants – and falsely inflated her monthly

income by 50%. *See infra* at ¶¶ 176–177. Similarly, to create the mirage that the buyers of a property on York Avenue in Staten Island had discharged a significant portion of their personal liabilities, Cambridge conspired with Cohen to pay off such debts using funds from Cohen, while claiming that the funds had come from the buyers’ daughter. *See infra* at ¶¶ 152–156. Further, to hide the fact that Cohen was paying off the buyers’ personal debts, Cambridge arranged for the preparation of false and misleading documents. For example, Jacqueline Derrell, the Director of Operations at Cambridge, falsely stated in a record that the buyers for a property on 116th Street in Queens had brought \$6,500 in cash to the closing to pay off their debts, whereas, in fact, Cohen had provided Cambridge with \$6,500 to pay off such debts. *See infra* at ¶¶ 98–103. Further, Cambridge invariably arranged for Cohen’s payoffs of buyers’ debts to be omitted from the loan closing documents, even though HUD rules required any such payment to be documented as an inducement to purchase. *See, e.g., infra* at ¶¶ 152–156, 222–226, 269–273.

7. Third, Defendants’ fraud also required participation by appraisers. To obtain HUD insurance, Cambridge and Cohen had to procure appraisal reports that “hit the numbers,” *i.e.*, fraudulently valued homes at or above the inflated prices set by Cohen. Here, three appraisers – defendants Goldberg, William Buckley, and Robert Micheline (collectively, the “Appraiser Defendants”) – filled that role. To ensure that they would continue to receive appraisal business from Cohen and Cambridge, the Appraiser Defendants conspired with Cohen and Cambridge to issue fraudulent appraisals that “hit the numbers.” For example, when Cambridge demanded that Goldberg raise the rental income estimate for a home on Newark

Avenue to an obviously unjustifiable level, Goldberg simply ignored the obligation to be independent and acceded to Cambridge's demand. *See infra* at ¶¶ 336–337. In another instance, to “hit the number” for Cambridge pursuant to their corrupt agreement, Micheline falsely reported that a home on 116th Street in Queens required no major repairs, when, in fact, that property needed the replacement of a kitchen, repairs to the roof, and refurbishment of a bathroom. *See infra* at ¶¶ 95–97.

8. Finally, Cohen and Cambridge were involved in the fourth step in defendants' fraud. Specifically, after securing the false records and inflated appraisals, Cambridge obtained HUD insurance for the mortgage loans for financing Cohen's fraudulent flip sales by submitting those false documents to HUD, along with Cambridge's false certifications regarding compliance with HUD requirements. *See, e.g., infra* at ¶¶ 94–105, 174–185. Further, to ensure that buyers who received funds from Cohen would consummate their purchases of Cohen's properties, Cohen and Cambridge arranged to pay off the buyers' personal debts only after the sales had closed. They did so by having Cambridge, rather than the buyers, send checks to the buyers' creditors, post-closing. *See infra* at ¶¶ 98–100, 222–224. In addition, because it had only a limited amount of capital, Cambridge replenished its capital by selling the seventeen mortgage loans used to finance Cohen's flip sales to subsidiaries of two financial institutions – Citibank, N.A. (“Citibank”) and Countrywide Bank, FSB (“Countrywide Bank”) – relying on the same false records and false certifications that it had submitted to HUD.

9. Defendants' fraud generated significant profits for them – for example, from the seventeen flip sales discussed below alone, Cohen and the entities associated with him netted more than one million dollars in profits. Not surprisingly, all seventeen mortgage loans have defaulted, most in the first six months after they closed. Those defaults have harmed HUD, which insured these mortgages. In fact, HUD already has received mortgage insurance claims for two of Cohen's properties, and can reasonably expect to receive insurance claims for the other fifteen. Those existing and expected insurance claims expose HUD to more than \$7.5 million in potential losses. Defendants' fraud also harmed the inexperienced, first-time buyers, who either have lost their homes or currently face eviction or foreclosure. Finally, the mortgage fraud scheme affected Citibank and Countrywide Bank, to whose subsidiaries Cambridge sold these bad loans. Those financial institutions have had to spend hundreds of thousands of dollars on interim mortgage payments on the defaulted loans. In light of the significant harm that defendants' fraud has caused, it is appropriate to impose civil penalties on defendants under FIRREA, and to order them to pay treble damages and penalties under the FCA, for their participation in the mortgage fraud scheme.

10. The United States also is entitled to injunctive relief because defendants can be expected to continue to engage in fraudulent conduct unless the Court stops them. Specifically, injunctive relief as against Cohen and Buy-a-Home is absolutely necessary because they have continued to orchestrate fraudulent flip sales. In 2010 alone, Cohen sold more than thirty-five homes in fraudulent flip sales, relying on other HUD direct endorsers and appraisers to help him procure

HUD-insured mortgage loans. Further, it is highly probable that Cohen will continue his fraudulent scheme, through Buy-a-Home, as he has at least eleven properties in the “pipeline” for flip sales between December 2010 and February 2011. *See infra* ¶¶ 481–484. In addition, because Goldberg and Buckley remain FHA Roster Appraisers, and because Kramer, Hyman, Lapidus, and Derrell may continue to originate HUD-insured mortgage loans through Cambridge or other businesses, injunctive relief also is appropriate as to those defendants to prevent them from further abusing the HUD mortgage insurance program, at the expense of HUD, inexperienced home-buyers, and financial institutions.

PARTIES

11. Plaintiff the United States is a sovereign, and HUD is a department of the United States. One of HUD’s statutory mandates is to create and sustain quality affordable homes for all Americans. HUD implements this mandate through the Federal Housing Administration (“FHA”), which, among other things, provides mortgage insurance on loans made by HUD-approved lenders.

12. Defendant Buy-a-Home is a New York limited liability company. During all relevant times, Buy-a-Home has been a real estate firm which has had its principal place of business at 87-02 Queens Boulevard in Queens, New York.

13. Defendant Metropolitan is a New York limited liability company. During all relevant times, Metropolitan was a real estate firm which had its principal place of business 98-75 Queens Boulevard in Rego Park, New York.

14. Defendant Gramercy is a New York corporation. During all relevant times, Gramercy was a real estate firm which had its principal place of business

unlawfully, willfully, and knowingly executed a scheme and artifice to defraud, using interstate mail carriers and interstate wire, in violation of 18 U.S.C. §§ 1341 and 1343. Specifically, Cohen, the Cohen Entities, the Cambridge Defendants, and Micheline fraudulently induced Countrywide to purchase HUD Loan No. 13 from Cambridge by sending to Countrywide false, fraudulent and misleading records, appraisal, and certifications, using interstate mail carriers and interstate wire. Further, as HUD Loan No. 13 defaulted within months of its being purchased by Countrywide, this scheme to defraud has affected Countrywide Bank, a financial institution.

549. Accordingly, each of Cohen, the Cohen Entities, the Cambridge Defendants, and Micheline is liable for civil penalties to the maximum amount authorized under 12 U.S.C. § 1833a.

FOURTEENTH CLAIM FOR RELIEF

**FOR CIVIL PENALTIES UNDER FIRREA IN CONNECTION WITH HUD LOAN NO. 14
(Against Cohen, the Cohen Entities, the Cambridge Defendants and Goldberg)**

550. Allegations in paragraphs 1-549 are realleged and incorporated herein by reference.

551. For purposes of fraudulently obtaining HUD mortgage insurance for HUD Loan No. 14, which was used to finance the flip sale of the South 8th Avenue Property, the Cambridge Defendants and Goldberg unlawfully, willfully, and knowingly created false and fraudulent records, prepared a false and inflated appraisal, made false certifications, and submitted such false and fraudulent

records, appraisals, and certifications to HUD and to FHA, in violation of 18 U.S.C. §§ 1006 and 1014.

552. In connection with orchestrating the flip sale of the South 8th Avenue Property at an inflated price, Cohen and the Cohen Entities unlawfully, willfully, and knowingly combined, conspired, and agreed with the Cambridge Defendants and Goldberg to violate 18 U.S.C. §§ 1006 and 1014. Specifically, it was a part and an object of the conspiracy that the Cambridge Defendants and Goldberg would unlawfully, willfully, and knowingly create false and fraudulent records, prepare false and inflated appraisals, make false certifications, and submit such false and fraudulent records, appraisals, and certifications to HUD and to FHA. Moreover, in furtherance of the conspiracy and to effect the illegal objects thereof, the Cambridge Defendants and Goldberg committed numerous overt acts, including, among other acts, the preparation of an inflated appraisal for the South 8th Avenue Property, the making of false certifications regarding HUD Loan No. 14, and the submission of such false records, appraisal, and certifications to HUD and FHA.

553. Further, for purposes of obtaining financing for the fraudulent flip sale of the South 8th Avenue Property and for continuing their mortgage fraud conspiracy, Cohen, the Cohen Entities, the Cambridge Defendants, and Goldberg unlawfully, willfully, and knowingly executed a scheme and artifice to defraud, using interstate mail carriers and interstate wire, in violation of 18 U.S.C. §§ 1341 and 1343. Specifically, Cohen, the Cohen Entities, the Cambridge Defendants, and Goldberg fraudulently induced Citi to purchase HUD Loan No. 314 from Cambridge by sending to Citi false, fraudulent and misleading records, appraisal, and

certifications, using interstate mail carriers and interstate wire. Further, as HUD Loan No. 14 defaulted within months of its being purchased by Citi, this scheme to defraud has affected Citibank, a financial institution.

554. Accordingly, each of Cohen, the Cohen Entities, the Cambridge Defendants, and Goldberg is liable for civil penalties to the maximum amount authorized under 12 U.S.C. § 1833a.

FIFTEENTH CLAIM FOR RELIEF

FOR CIVIL PENALTIES UNDER FIRREA IN CONNECTION WITH HUD LOAN NO. 15
(Against Cohen, the Cohen Entities, the Cambridge Defendants, and Micheline)

555. Allegations in paragraphs 1-554 are realleged and incorporated herein by reference.

556. For purposes of fraudulently obtaining HUD mortgage insurance for HUD Loan No. 15, which was used to finance the flip sale of the Tompkins Place Property, the Cambridge Defendants and Micheline unlawfully, willfully, and knowingly created false and fraudulent records, prepared an inflated appraisal, made false certifications, and submitted such false and fraudulent records, appraisals, and certifications to HUD and to FHA, in violation of 18 U.S.C. §§ 1006 and 1014.

557. In connection with orchestrating the flip sale of the Tompkins Place Property at an inflated price, Cohen and the Cohen Entities unlawfully, willfully, and knowingly combined, conspired, and agreed with the Cambridge Defendants and Micheline to violate 18 U.S.C. §§ 1006 and 1014. Specifically, it was a part and an object of the conspiracy that the Cambridge Defendants and Micheline would

unlawfully, willfully, and knowingly create false and fraudulent records, prepare false and inflated appraisals, make false certifications, and submit such false and fraudulent records, appraisals, and certifications to HUD and to FHA. Moreover, in furtherance of the conspiracy and to effect the illegal objects thereof, the Cambridge Defendants and Micheline committed numerous overt acts, including, among other acts, the creation of false records claiming that Buyers 15-A and 15-B both intended to use the Tompkins Place Property as their primary residence, the preparation of an inflated appraisal for the Tompkins Place Property, the making of false certifications regarding HUD Loan No. 15, and the submission of such false records, appraisal, and certifications to HUD and FHA.

558. Further, for purposes of obtaining financing for the fraudulent flip sale of the Tompkins Place Property and for continuing their mortgage fraud conspiracy, Cohen, the Cohen Entities, the Cambridge Defendants, and Micheline unlawfully, willfully, and knowingly executed a scheme and artifice to defraud, using interstate mail carriers and interstate wire, in violation of 18 U.S.C. §§ 1341 and 1343. Specifically, Cohen, the Cohen Entities, the Cambridge Defendants, and Micheline fraudulently induced Countrywide to purchase HUD Loan No. 15 from Cambridge by sending to Countrywide false, fraudulent and misleading records, appraisal, and certifications, using interstate mail carriers and interstate wire. Further, as HUD Loan No. 15 defaulted within months of its being purchased by Countrywide, this scheme to defraud has affected Countrywide Bank, a financial institution.

559. Accordingly, each of Cohen, the Cohen Entities, the Cambridge Defendants, and Micheline is liable for civil penalties to the maximum amount authorized under 12 U.S.C. § 1833a.

SIXTEENTH CLAIM FOR RELIEF

**FOR TREBLE DAMAGES AND CIVIL PENALTIES UNDER THE FCA
IN CONNECTION WITH HUD LOAN NO. 16**

(Against Cohen, the Cohen Entities, the Cambridge Defendants, and Micheline)

560. Allegations in paragraphs 1-559 are realleged and incorporated herein by reference.

561. The United States seeks treble damages and civil penalties against Cohen, the Cohen Entities, the Cambridge Defendants, and Micheline because they fraudulently obtained HUD insurance for HUD Loan No. 16 for the sale of the 155th Street Property to Buyer 16, in violation of 31 U.S.C. § 3729(1)(A)–(C).

562. Specifically, as set forth above, *see supra* at ¶¶ 438 – 458, Cohen, the Cohen Entities, the Cambridge Defendants, and Micheline knowingly, or with reckless disregard for the truth, caused a false claim for mortgage insurance coverage for HUD Loan No. 16 to be presented to an officer, employee, or agent of the United States, namely HUD, in violation of 31 U.S.C. § 3729(1)(A).

563. Further, Cohen, the Cohen Entities, the Cambridge Defendants, and Micheline knowingly, or with reckless disregard for the truth, caused false records and false statements to be made or used to get a false claim for mortgage insurance coverage for HUD Loan No. 16 paid by HUD, in violation of 31 U.S.C. § 3729(1)(B).

564. In addition, and in violation of 31 U.S.C. § 3729(1)(C), Cohen, the Cohen Entities, the Cambridge Defendants, and Micheline conspired to cause a

false claim mortgage insurance coverage for HUD Loan No. 16 to be presented to HUD, or to cause false records and false statements to be made or used to get a false claim for mortgage insurance coverage for HUD Loan No. 16 paid by HUD.

565. By reason of the fraudulent conduct of Cohen, the Cohen Entities, the Cambridge Defendants, and Micheline in connection with obtaining HUD insurance for HUD Loan No. 16, the United States has sustained \$262,101 in damages to date, and such further damages in an amount to be determined at trial.

SEVENTEENTH CLAIM FOR RELIEF

FOR TREBLE DAMAGES AND CIVIL PENALTIES UNDER THE FCA IN CONNECTION WITH HUD LOAN NO. 17

(Against Cohen, the Cohen Entities, the Cambridge Defendants,
Premier and Buckley)

566. Allegations in paragraphs 1-565 are realleged and incorporated herein by reference.

567. The United States seeks treble damages and civil penalties against Cohen, the Cohen Entities, the Cambridge Defendants, Premier, and Buckley because they fraudulently obtained HUD insurance for HUD Loan No. 17 for the sale of the Beach 88th Street Property to Buyers 17-A, 17-B, and 17-C, in violation of 31 U.S.C. § 3729(1)(A)–(C).

568. Specifically, as set forth above, *see supra* at ¶¶ 459–480, Cohen, the Cohen Entities, the Cambridge Defendants, Premier, and Buckley knowingly, or with reckless disregard for the truth, caused a false claim for mortgage insurance coverage for HUD Loan No. 17 to be presented to an officer, employee, or agent of the United States, namely HUD, in violation of 31 U.S.C. § 3729(1)(A).

569. Further, Cohen, the Cohen Entities, the Cambridge Defendants, Premier, and Buckley knowingly, or with reckless disregard for the truth, caused false records and false statements to be made or used to get a false claim for mortgage insurance coverage for HUD Loan No. 17 paid by HUD, in violation of 31 U.S.C. § 3729(1)(B).

570. In addition, and in violation of 31 U.S.C. § 3729(1)(C), Cohen, the Cohen Entities, the Cambridge Defendants, Premier, and Buckley conspired to cause a false claim mortgage insurance coverage for HUD Loan No. 17 to be presented to HUD, or to cause false records and false statements to be made or used to get a false claim for mortgage insurance coverage for HUD Loan No. 17 paid by HUD.

571. By reason of the fraudulent conduct of Cohen, the Cohen Entities, the Cambridge Defendants, Premier, and Buckley in connection with obtaining HUD insurance for HUD Loan No. 17, the United States has sustained \$482,470 in damages to date, and such further damages in an amount to be determined at trial.

EIGHTEENTH CLAIM FOR RELIEF

FOR AN INJUNCTION UNDER THE FRAUD INJUNCTION STATUTE

(Against Cohen and Buy-a-Home)

572. Allegations in paragraphs 1-571 are realleged and incorporated herein by reference.

573. Cohen and Buy-a-Home knowingly and intentionally devised, and participated in, schemes to defraud the United States, through HUD, of money and property, by abusing the HUD mortgage insurance program; and to commit frauds that affected home-buyers, financial institutions, and HUD.