

An independent investigation includes evaluating information and supporting documentation provided by both parties for the allegation period of September 4, 2018 to March 14, 2019. At which time, the investigator would review the policies, procedures, controls, management/oversight escalation, and monitoring reports that was available during the allegation period. Information would be pulled down from the system of record, reviewed, then a determination would be delivered based on facts and evidence. It is important in an investigation to identify as many sources of information as possible. The goal of the investigation is to uncover all of the evidence that is available in order to ensure a thorough investigation that supports a recommendation, but that did not happen. The investigator(s) relied heavily if not solely on the agency's staff and their word with no follow up questions and little to no reference to the governing documents or the system(s) of record. This was not an independent investigation; this was and is a cover-up disguised as an investigation.

I am disturbed by the pattern of false statements and attempts to mislead the U.S. Office of Special Counsel, the public, and prevent Congress and the American people from seeing how taxpayer and investors' dollars are being mismanaged. There needs to be more accountability at HUD and stronger oversight of the agency or else this pattern of unlawful behavior will continue. The recommendations were just peace offerings that doesn't contain any substance nor fix any root problems. All of those recommendations were already supposed to be in place. The controls weren't effective back then and they will not be effective controls now. HUD is banking on the OSC lack of knowledge to the applicable laws and statues that govern the agency. HUD also minimized the disclosures to just one or two loans to hide the lack of oversight that spans across the MFH portfolio as a whole. OSC should not only deem the report

The agency stated that UDAAP is inapplicable to the alleged violations. That is correct UDAAP applies to consumers; however, Unfair or deceptive acts or practices (UDAP) under Section 5 of the Federal Trade Commission Act (FTC Act) is in fact applicable under statute 15 U.S.C. §§ 41 - 58. The FTC is charged, inter alia, with enforcement of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair and deceptive acts or practices in or affecting commerce. The Federal Deposit Insurance Corporation (FDIC), Federal Reserve Board (FRB), Office of the Comptroller of the Currency (OCC) and Office of Thrift Supervision all have authority to enforce Section 5 of the FTC Act. The FTC has authority to take action against nonbanks that engage in a UDAP. Unlike many consumer protection laws, Section 5 of the FTC Act also applies to transactions with non-consumers and businesses. Some acts or practices may violate both section 5 of the FTC Act and other federal or state laws. Other acts and practices may violate only the FTC Act while fully complying with laws, rules, and regulations. Therefore, if a potential UDAP violation is found, consider whether other statutory or regulatory violations have occurred. If a UDAP involves an entity or entities over which more than one agency has enforcement authority, the agencies may coordinate their enforcement actions.

HUD is familiar with the FTC and UDAP as Secretary Ben Carson wrote to the Chairman of the U.S. Federal Trade Commission (FTC) Joseph J. Simons on occasion requesting investigations. HUD's practices not only violates UDAP, there are also violations to multiple other laws, rules, regulations, and even HUD policies. As such, National Housing Act should not be the only Act applied to this review. The review should focus on any and all laws, rules, and regulation violations as well as internal policy violations.

Multifamily property owners should be treated fairly and honestly in the servicing of their loans and the handling of their escrow accounts. It is particularly important that the Agency and Commission stop unfair or deceptive practices in this industry, because property owners have no choice about who services their loans or manages their escrow accounts – and it can be extremely difficult for owners to avoid the unfair treatment. HUD is taking advantage of unsuspecting businesses and should be held accountable. HUD "inadequately enforces" the Fair Housing Act, the Administrative Procedure Act, the Federal Trade

Commission Act, and UDAP (just to name a few) in servicing multifamily projects. HUD cannot continue to sideline rules and turn a blind eye to unlawful acts and/or practices.

Scope

The Claimant's term of employment was September 4, 2018 through March 14, 2019 and this review should only cover allegations and remediation effects that occurred prior to March 14, 2019 to determine the validity of the allegations. This information can be verified with the Claimant's termination SF-50 which list the employment time.

Evidence/Reference Material:

1. **Scope 1A- SF-50 Effective 09.04.2018-** This will have the Claimant's official hire date.
2. **SF-50 Effective 03.14.2019-** This is not included. Please request this document from the agency as the last SF-50 will confirm the official termination date.

HUD Failed to Properly Identify Portfolio

During the Claimant's employment with HUD, the Claimant was responsible for monitoring the performance of approximately 82+projects, but the agency only appraised 66 projects during this review. On October 2, 2019, the investigator requested the Claimant provide a list of projects to which the Claimant was assigned during their tenure with HUD. During an in person interview, the Claimant told the investigators that the agency should be able to pull a list from iREMS, APPS, AMPS, and/or monthly Portfolio Exception Reports that only agency employees have access to. Claimant is no longer an employee and does not have access to HUD systems or reports. Nevertheless, the claimant provided the list of projects that was confirmed apart of the portfolio during the review period. The investigator failed to properly identify an accurate portfolio even though the Claimant provided a list and the list was included on the exhibit 1 Correspondence Logs Part1. Redacted Names document that was a part of the agencies evidence provided to OSC. Page 5 of the Cover Letter and Report 11.18.19, the agency stated that the Claimant's portfolio contained 66-projects. This is a factually inaccurate statement. The agency has the systems, tools, and resources to accurately identify all projects managed by the Claimant. HUD failed to properly identify and review all projects managed by the Claimant. There were 82 projects managed by the Claimant while employed with the agency that must be reviewed.

Exception Noted

1. HUD failed to properly identify and review all projects managed by the Claimant.
2. HUD failed to use portfolio list provided by the Claimant on 10/03/2019.

Evidence/Reference Material:

1. **PORTFOLIO 1A- Email Request for Project List**
Email evidences the agency requested a list of projects that the Claimant managed during the review period. This request is dated 10/2/2019.
2. **PORTFOLIO 2A- Email List of Projects from Claimant**
Email evidences the Claimant provided the list of projects.
3. **PORTFOLIO 3A- List of Projects from Claimant**
The list of projects the Claimant provided to the agency.
4. **PORTFOLIO 4A- Portfolio and Exceptions Report 9.2018**
Monthly Report issued and used by the agency. Claimant used this report to help identify portfolio assigned during review period. 33 properties were identified
5. **PORTFOLIO 5A rptInventory 2.26.2019**
Report pulled from agency system- AMPS and it was pulled on 02/26/2019 which is during the review period.

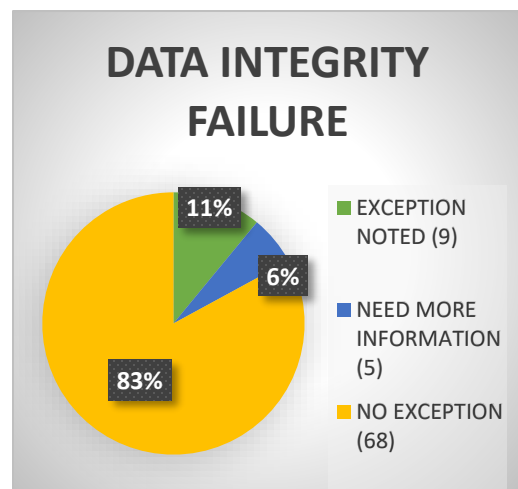
HUD Failed to Ensure Physical Condition Standards and Inspection Requirements

During the process of this investigation, the Claimant's disclosures have been minimized at every angle to reduce the impact. While still employed with HUD the Claimant disclosed that the agency as a whole was not ensuring compliance with the physical condition standards and keeping the public safe. The disclosures were reduced to the projects that the Claimant managed (only). Then the disclosure was reduced even smaller to a portion of the Claimants portfolio. The Claimant addressed the reduction of the disclosures in an email to the agency on 10/15/2019 which the agency failed to include in the report. A copy of the email has been provided for OSC review. The email evidences the Claimant informed the agency that all projects in Claimant's portfolio should be reviewed.

The Complaint undertook a review of the HUD review results listed on page 5 of the Cover Letter and Report 11.18.19 along with the evidence provided to support the results and determined the results were factually inaccurate. HUD failed to review all projects managed by the Claimant, HUD also used inspections that were performed after the review period end date which is March 14, 2019 (Claimant's termination date). By using inspections and data after the Claimant's termination date, HUD is reducing the impact by including remediation efforts in an attempt to deceive the audience.

In order to understand the data provided by HUD and the Claimant, we must take a deep dive into the requirements and analyze the supporting documents. Let's take a moment to review each stage of the inspection process which the Claimant has broken down into four phases: Timing of the REAC Inspection, Exigent Health and Safety (EH&S) , Notices and Escalation Procedures and Governmental Records. Before getting to the three phase, we need to test the integrity of the data provided by the agency. The review found:

- HUD failed to properly identify 20% of the Claimant's project portfolio. Sixteen (16) projects were not listed on the Exhibit 2 Attachment A iREMS Inspections EHS Certs (1) -Excel document that HUD provided. Seven (7) of the 16 projects have REAC inspections that were found on the MFH Inspection Report that was pulled from https://www.hud.gov/program_offices/housing/mfh/rem/remainspecscores/remphysinsp_scores and should be a part of the review. An additional (5) five projects were identified, but the final endorsement dates and/or REAC inspections could not be located. The final endorsement dates and REAC inspections are needed to evaluate the projects. The last four projects were within two years of the final endorsement (4) date and does not require an inspection during the review period.
- Although HUD listed the requirements and CFRs for the REAC inspections, HUD failed to apply the requirements correctly to two (2) projects in the Claimant's portfolio and noted that the projects did not need inspections. This is just what we know from the data HUD provided in this report, this number may increase when a thorough independent investigation is performed. According to the CFR requirements, newly endorsed or refinanced projects are inspected two years from the final endorsement date. Ridge Parc II Apartments was final endorsed on 4/27/2016 and Maywood I Apartments was final endorsed on 9/3/2014, both projects should have been inspected at least once. Neither project has been inspected as of 12/2019 (when the inspection report was pulled from hud.gov).



- Final results:** REAC inspections for 61 projects were available for testing, 14 projects were exempted from the REAC inspection requirements, five (5) projects need additional information from the agency to determine the compliance status and (2) projects never received an inspection. Over the course of the REAC review, there will only be 63 out of 82 projects tested. (61+14+5+2=82)

Property Name	iREMS#	ON MFH INSPECTION REPORT	Attachment A iREMS Inspections EHS Certs(1)	EXCEPTION NOTED
Ridge Parc II Apartments	800242687	N	Y	Exception Noted: The Final Endorsement Date is 4/27/2016. Per requirements, REAC inspection should be completed within 2 years from the final endorsement date (4/27/2018). As of March 14, 2019, no evidence of a REAC inspection for the project.
Maywood I Apartments	800233895	N	Y	Exception Noted: The Final Endorsement Date is 9/3/2014. Per requirements, REAC inspection should be completed within 2 years from the final endorsement date (9/3/2014). As of March 14, 2019, no evidence of a REAC inspection for the project.
Grandview Apartments	800000612	Y	N	Exception Noted: Project is not listed on the Exhibit 2 Attachment A iREMS Inspections EHS Cert(3)12.2016 Review-Excel evidence that HUD submitted to OSC. HUD is not furnishing complete and accurate data. REAC inspections are evident on the MF Inspection Report dated 11/25/2019 which Claimant pulled from www.hud.gov
Oak Creek Village	800021156	Y	N	Exception Noted: Project is not listed on the Exhibit 2 Attachment A iREMS Inspections EHS Cert(3)12.2016 Review-Excel evidence that HUD submitted to OSC. HUD is not furnishing complete and accurate data. REAC inspections are evident on the MF Inspection Report dated 11/25/2019 which Claimant pulled from www.hud.gov
RAINBOW VILLAGE II	800211669	Y	N	Exception Noted: Project is not listed on the Exhibit 2 Attachment A iREMS Inspections EHS Cert(3)12.2016 Review-Excel evidence that HUD submitted to OSC. HUD is not furnishing complete and accurate data. REAC inspections are evident on the MF Inspection Report dated 11/25/2019 which Claimant pulled from www.hud.gov
Rebekah Baines Johnson	800046796	Y	N	Exception Noted: Project is not listed on the Exhibit 2 Attachment A iREMS Inspections EHS Cert(3)12.2016 Review-Excel evidence that HUD submitted to OSC. HUD is not furnishing complete and accurate data. REAC inspections are evident on the MF Inspection Report dated 11/25/2019 which Claimant pulled from www.hud.gov
Rollingbrook Apartments	800074547	Y	N	Exception Noted: Project is not listed on the Exhibit 2 Attachment A iREMS Inspections EHS Cert(3)12.2016 Review-Excel evidence that HUD submitted to OSC. HUD is not furnishing complete and accurate data. REAC inspections are evident on the MF Inspection Report dated 11/25/2019 which Claimant pulled from www.hud.gov
The Residence at Eagle Pass	800225390	Y	N	Exception Noted: Project is not listed on the Exhibit 2 Attachment A iREMS Inspections EHS Cert(3)12.2016 Review-Excel evidence that HUD submitted to OSC. HUD is not furnishing complete and accurate data. REAC inspections are evident on the MF Inspection Report dated 11/25/2019 which Claimant pulled from www.hud.gov
U Lofts Apartments	800235317	Y	N	Exception Noted: Project is not listed on the Exhibit 2 Attachment A iREMS Inspections EHS Cert(3)12.2016 Review-Excel evidence that HUD submitted to OSC. HUD is not furnishing complete and accurate data. REAC inspections are evident on the MF Inspection Report dated 11/25/2019 which Claimant pulled from www.hud.gov
Capdau Home for the Aged	800248394	N	N	Final endorsement date is unknown. More information needed.
Dolce Vita at Cibola Canyon	800246873	N	N	Final endorsement date is unknown. More information needed.
Dolce Vita at Granbury	800247932	N	N	Final endorsement date is unknown. More information needed.
Shary Road Apartments	800232562	N	N	Final endorsement date is unknown. More information needed.
Townsen Landing Apartment	800248504	N	N	Final endorsement date is unknown. More information needed.
Auburn Creek	800245098	N	Y	No Exception: Final endorsement date is 1/31/2018. No inspection due within 2 years of final endorsement date.
Lookout Springs	800240851	N	Y	No Exception: Final endorsement date is 3/29/2018. No inspection due within 2 years of final endorsement date.
ENCORE CROSSING PHASE	800236809	N	Y	No Exception: Final endorsement date is 5/31/2018. No inspection due within 2 years of final endorsement date.

(Additional information found on REAC 4A DATA INTEGRITY FAILURE TEST)

Timing of REAC Inspection

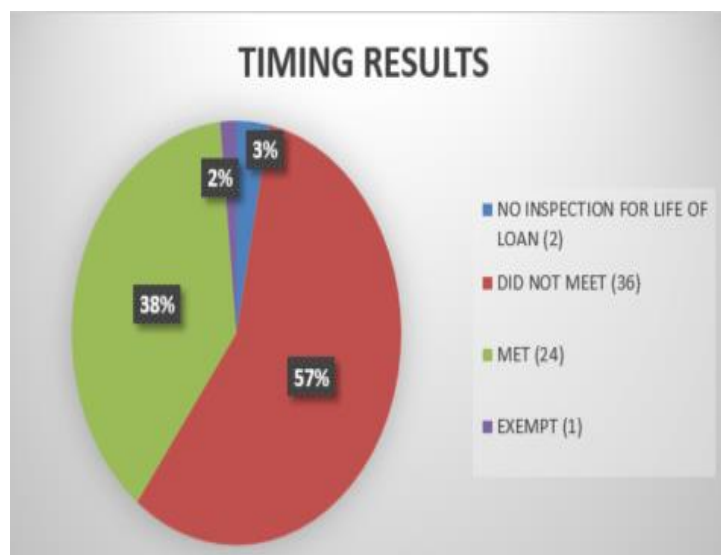
Properties with Federal Housing Administration (FHA) insurance that are newly endorsed or refinanced are inspected two years from the final endorsement date. Thereafter, and for all other properties subject to physical inspections, the timing of the inspection follows the “3-2-1 Rule” found in 24 CFR 200.857:

- Properties that score 90 points or higher are inspected every three years.
- Properties that score 80 to 89 points are inspected every two years.
- Properties that score 79 or less points are inspected annually.
- Properties that score a 59 or below must follow Notice: H 2018-08. Generally the owner is issued a NOV/NOD, given a 60 days cure period, and a re-inspection is scheduled (as soon as possible after the cure period).

The above requirements were used to evaluate and substantiate the Claimant's disclosure. For this evaluation the Claimant reviewed both the 82 projects that were a part of the portfolio that the Claimant managed along with all of the projects that were published on the REAC Physical Inspections Scores and Release Dates which was released on November 25, 2019. For this review, the Claimant only used inspections that were dated on or before March 14, 2019. The review found:

Claimant's Portfolio Only

- HUD used 31 REAC inspections that were received after the disclosure period ended (March 14, 2019) in their report and using any of these inspections are padding the numbers. The purpose of the review is to determine the status of the Claimant's portfolio at the time of disclosure and employment. We can discuss remediation efforts at a later time which it does seem as if HUD has been busy cleaning up this portfolio, but failed to do the same across the board. Nevertheless, the Claimant's look back at her portfolio revealed that as of March 14, 2019, two(2) projects have never received an inspection, 38 project inspections were past due for inspections, 22 projects were in compliance, and one (1) project was exempt due to the final endorsement date. This was just for the most recent inspections.
- The two (2) projects that have not been inspected are the Ridge Parc II Apartments 800242687 and Maywood I Apartments 800233895. Ridge Parc II Apartments was endorsed on 4/27/2016 and the first inspection was due within 2 years of the final endorsement date (4/2018). This inspection still has not taken place. Maywood I Apartments is the second project that has not been inspected and the endorsement date was 9/3/2014 which mean the inspection was due by 9/2016. Just as Ridge Parc II Apartments, this inspection has not taken place.
- There was a total of 232 inspection reports of which only 89 were eligible for testing
 - Inspections are required on projects within two (2) years of the final endorsement date. In order to determine if the first inspection was on time, we need to know the final endorsement date then add two years. This is why timing of the first (61) inspections cannot be tested. Eighty-two (82) inspections were after March 14, 2019 and were ineligible to test for this review. This left a total of 89 inspections to test.
 - 63 of the 89 inspections were past due as of March 14, 2019. This means that at the time of the disclosure 71% of the Claimants' portfolio was not in compliance. This is much higher than the 27 projects that HUD stated in their report because it does not include the cleanup efforts that HUD has completed since March 14, 2019. HUD stated that the lapse time was 1-2 years which is incorrect. The lapse time was 1- 11 years from the required schedule.



- On projects that failed the decent, safe and sanitary physical standards there was no evidence of a re-inspection as required within 60 days of a failed inspection. The time lapses were 1-4 years on these projects.

HUD Project Review

- As if 63 out of 89 inspections wasn't enough to prove gross mismanagement, Claimant reviewed all 27,000+ projects that are listed on the REAC Inspection Report as of November 25, 2019. Although we know this number does not include all projects that should have inspections, it will help paint a clearer picture. Approximately 17,000 out of 27,000 project inspections were past due as of March 14, 2019. This is over 61% of the projects were not in compliance with the requirement.
- There were 2900+ failed inspections which means that at the time of the inspection, the projects were not decent, safe and/or sanitary yet families lived in the projects. There was no evidence of the required 60 day re-inspections and the time lapse was as long as 6 years between inspections on some projects. We don't know exactly how many life threaten conditions went unmitigated, but we do know HUD lacks the controls to mitigate those risks.

Since March 14, 2019, HUD has sprung into action to clean up the projects that they chose to review from the Claimant's portfolio. So much so, 29 inspections were completed on projects in the Claimant's portfolio only leaving six (6) projects left to clean up at the time the report was issued to OSC. Although the agency was busy cleaning up the Claimants portfolio to discredit her claims, they failed to apply those same efforts to HUD's portfolio as a whole. As of November 25, 2019, there were over 21,500+ past due inspections. To make matters worse, some projects have not been inspected since 2000. This means for 20 years, several projects were not inspected to determine the living conditions of the tenants and the condition of the projects.

Conclusion

Evidence reveals that HUD failed to adequately service Claimant's portfolio resulting in a 71% noncompliance rate at the time of disclosure. Evidence also revealed 61% of the projects in HUD's overall portfolio was also past due as of March 14, 2019 and over 21,500+ projects past due as of November 25, 2019. **Claimant's allegation of gross mismanagement is substantiated by HUD's reports and this investigation results.**

Exigent Health and Safety (EHS)

Pursuant to 24 C.F.R. 200.857, owners must certify in writing to HUD within three (3) business days after an inspection that all EHS (life threatening) deficiencies identified during the inspection have been resolved. The owner must submit a certification and reasonable evidence that the EHS items have been resolved including but not limited to photos, work orders, and paid invoices. Claimant's review found:

- Of the projects that HUD reviewed, 43% did not include copies of Owner's signed certification and 49% did not include supporting documentation to ensure that the projects life threatening deficiencies were mitigated. As mentioned above in the timing of REAC inspections section, HUD did not review all of the Claimant's project inspections and HUD included data from inspection reports completed after March 14, 2019. The data provided is inaccurate.

- In reviewing Exhibit 2 Attachment A iREMS Inspections EHS Certs., Claimant found that 51 of the 75 EH&S items were eligible for review. Of the projects reviewed, 54% did not include copies of Owner's signed certification and 56% did not include supporting documentation to ensure that the projects life threatening deficiencies were mitigated.
- Claimant does not have access to all of the REAC inspections and cannot complete a review of all inspection reports for not only the Claimants portfolio but also the 27,000 projects in HUD's portfolio to determine exactly how many life threatening deficiencies have been left unmitigated. This is a public safety concern and HUD has failed to protect hundreds of thousands of families from unsafe living conditions.

Conclusion

Evidence reveals that HUD has failed to protect over half of the Claimant's projects alone that had EHS items. As if that was not enough to substantiate the Claimant's claim, there are hundreds of thousands of families that are potentially exposed to life threatening unmitigated conditions in HUD's portfolio as a whole. These are known deficiencies that HUD allows to go unresolved with little to no consequences and little to no oversight. **Claimant's allegation of gross mismanagement, an abuse of authority, danger to public health and safety is substantiated.**

Notices and Escalation Procedures

Pursuant to 24 C.F.R. §200.857, owners must also certify in writing to HUD within three (3) business days after an inspection the residents were informed of the inspection and the results. In addition to notifying the tenants of the inspection results, the actions below must be taken for all projects with an assistance contract and/or a regulatory agreement:

- When the issuance of a physical inspection reveals an inspection score below 60 and/or,
- When the property owner fails to timely and property certify to HUD in writing that all EHS deficiencies identified during a physical inspection have been corrected.

Within 15 days of the physical inspection report release date, a notice of violation of regulatory agreement and/or a notice of default of subsidy contract (NOV/NOD), must be issued to the owner of the property. At a minimum, each NOV/NOD must advise the owner of the violations/defaults of the owner's business agreements, and provide a reasonable period ("cure period") to correct the deficiencies and take other actions identified below.

- A. If the violations/defaults relate to deficiencies identified in a REAC inspection report that resulted in a score below 60, the owner should be directed to take the following actions within the cure period (e.g., 60 days):
 1. Conduct a survey of the entire project, including all units, common areas, grounds, building systems and site(s);
 2. Correct all deficiencies at the property, including those identified in the REAC inspection report and the owner's survey; and
 3. Submit to their Account Executive (AE) a copy of the owner's survey and a form certification that all deficiencies have been corrected and that the property meets HUD's PCS&IR.

- B. If the violations/defaults relate to the owner's failure to timely and properly certify to HUD that all identified EHS deficiencies have been resolved, the owner should be provided with a cure period of three (3) business days to submit the required certification to the AE.

- C. If the violations/defaults relate to conditions described in both A and B above, the NOV/NOD must prescribe the corrective actions identified for both conditions along with their respective cure periods.
- D. If the properties have project-based rental assistance with one or more buildings constructed before 1978 and are family properties not designated as “elderly” or “handicapped” housing, such as Section 202 or 811 properties, the NOV/NOD must include the LBP Compliance Documentation Instructions.

Each NOV/NOD must also direct the owner to provide a copy of the NOV/NOD to the project’s tenants and require the owner to certify it has done so by reasonable means such as leaving a notice under each door, posting in a mail room and on each floor, etc.⁸ Upon issuance of the NOV/NOD, HUD staff must supply a copy of each NOV/NOD to the Contract Administrator, any mortgagee and the chief executive of the municipal/local government.

NOVs/NODs must be executed by the HUD official having delegated authority. NOVs/NODs are legal notices required under our business agreements, and they provide the basis for any enforcement action taken by HUD if the compliance requirements in the notices are not met. Therefore, the notices must be accurate and include all elements required under the business agreements, regardless of the minimum requirements stated in this Notice. After an NOV/NOD is issued, a new REAC inspection must be ordered to ensure that the owner has corrected the deficiencies at the property, and to ensure that the project meets the PCS&IR.

Re-inspection

Scores of 30 and under: For projects that receive a score of 30 and under, the re-inspection request should be made immediately upon issuance of the NOV/NOD. Typically, the DEC issues the NOV/NOD in these circumstances and will order the re-inspection in such instances. The ideal date requested for the re-inspection should be as soon as possible after the expiration of the cure period provided in the NOV/NOD. If an extension of the cure period is later approved by OAMPO, the re-inspection request must be modified – by OAMPO staff – to occur as soon as possible after the expiration of the extended cure period.

Scores of 31 and above¹⁰: For projects that receive a score of 31 and above, the request for re-inspection should be delayed until after the cure period provided in the NOV/NOD expires, including any cure period extension granted by OAMPO. If the owner timely fulfills the requirements of the NOV/NOD, the re-inspection should be ordered to occur within one year after the date of the last inspection.¹¹ (This may require that OAMPO staff modify the DEC’s prior request for re-inspection in SharePoint if a score of 30 or less is subsequently changed to a score over 30 on appeal.) If the owner fails to timely fulfill any of the requirements of the NOV/NOD, the re-inspection should be requested to occur as soon as possible. Such requests will be made by OAMPO staff even if the NOV/NOD was issued by the DEC.

Scores 30 or Less

Projects that receive inspection scores of 30 or less are automatically referred to the DEC.

APPS Flags

When a property receives a physical inspection score below 60 and/or HUD determines that a project does not meet HUD’s PCS&IR, the owner and project participants will be flagged in APPS if they fail to provide the “PROJECT OWNER’S CERTIFICATION THAT THE PHYSICAL CONDITION OF THE PROJECT IS IN COMPLIANCE WITH HUD CONTRACTS AND THE 9

PHYSICAL CONDITION STANDARDS OF 24 C.F.R. § 5.703” or an approvable repair plan in the time frame required by an NOV/NOD. The owner and project participants will also be flagged in APPS if they receive consecutive physical inspection scores below 60 or, as otherwise determined by HUD, the project does not meet PCS&IR.

APPS flags must also be entered by the Account Executive (AE) in APPS at the time a project receives an inspection score of 30 or less, and the property is automatically referred to the DEC. The AE must also ensure that the other parties (principals and managing agent) are manually flagged. Once they are placed in APPS, APPS flags shall remain in place unless and until the property is re-inspected and receives a score of 60 or above or HUD otherwise determines that the property meets HUD’s decent, safe, and sanitary standard.

Per H 2016-15 issued October 20, 2016, HUD utilizes flags in the APPS system as a way to assess risk associated with participants in Office of Multifamily Housing and Office of Healthcare Programs projects. Flags are considered risk factors that require appropriate mitigation, where possible. Flags are to be a meaningful representation of risk, and therefore, they should be consistently placed. The Notice gives specific guidelines on when a flag should be placed on owners and agents and HUD failed to place flags on the owners and the agents due to the continuous default. The impact of the flags are huge; these flags place restrictions on the owners/agents ability to manage/purchase more properties. This is not an isolated event as there are thousands of loans failed to comply with physical inspection standards with no controls in place the inconsistent treatment has and will continue. There are also several Unfair Deceptive Act or Practice (UDAP) violation.

- What makes something “Unfair” must satisfy all three elements:
 - Element 1: It either cause or is likely to cause substantial injury to customers (monetary or non-monetary)
 - Element 2: The customer cannot reasonably avoid the injury
 - Element 3: No other benefit to consumers or competition exist that justify the act or practice

This case: Yes, the action was unfair as the customers was and are being harmed, HUD did not apply flags consistently. If two similarly situated projects came in at the same time, there is a risk that one project owner/agent would be flagged and the owners/agents one would not. This is unfair treatment and it cannot be avoid.

- What makes something “Deceptive” must satisfy all three elements:
 - Element 1: A representation or omission of facts that either misleads or is likely to mislead a customer, whether or not it was made with good intentions or with malice
 - Element 2: The customer’s interpretation is reasonable under the circumstances
 - Element 3: The misleading representation, omission, act or practice is “material”

This case: HUD failed to inform the customer and the public accurate information. When HUD does not follow up with the owners on the EHS items mitigation which includes posting a copy of the inspection results, the tenants and potential tenants may not be notified of the projects condition. The omission of this fact is material and hinders the tenants’ ability to make an informed decision.

Conclusion

Although HUD’s review included EHS items, HUD failed to include the required notices and flag placement which are a part of the REAC oversight process. We know from the review of the EHS items, that there were more than 50% of project records reviewed did not include copies of Owner’s signed certifications. Although this is enough to substantiate the Claimant’s claims, this does not expose how

many times tenants', owners', contract administrators', and/or owners' rights have been violated by not receiving the required notices and inconsistently applying flags. HUD has also failed to escalate repeat offenders that failed to meet physical condition standards and also failed to refer projects with a 30 or less score to the DEC. To find out exactly how many, review the most recent REAC inspection report that was published on hud.gov, pull inspections that received a 30 or less, then see if those projects were referred to the DEC. To see repeat offenders, review the most recent REAC inspection report that was published on hud.gov, pull inspections that received a 59 or less, then filter to uncover just how many projects received more than one failed inspection, and compare it to the list of DEC referrals (we are assuming the DEC referral information is accurate).

The REAC scores are published for the public to view and use. By publishing incorrect data, HUD is hindering the public's ability to make an informed decision and this could not be avoided by the public as the only way to get this information is from HUD.

Governmental Records

There are data integrity concerns with HUD system of records as well as data published to congress, tenants', owners', contract administrators', mortgagees', and the general public. We have already addressed the fact that there are projects that require inspections, not being inspected due to system failures and lack of oversight. Now we will address project records being falsified, inaccurate and/or incomplete.

What are the requirements and why are we looking at information entered in iREMS? Federal departments and agencies create federal records in the course of their daily operations. The Federal Records Act (FRA) requires HUD to "create and maintain authentic, reliable, and usable records and ensure that they remain so for the length of their authorized retention period. Agencies "must prescribe the creation and maintenance of" records that

- document the persons, places, things, or matters dealt with by the agency;
- facilitate action by agency officials and their successors in office;
- make possible a proper scrutiny by Congress or other duly authorized agencies of the government;
- protect the financial, legal, and other rights of the government and of persons directly affected by the government's actions;
- document the formulation and execution of basic policies and decisions and the taking of necessary actions, including all substantive decisions and commitments reached orally (person-to-person, by telecommunications, or in conference) or electronically; and
- document important board, committee, or staff meetings.

The records are designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities. It's important to ensure that the records are accurate as the public has access to the records under the Freedom of Information Act (FOIA). If HUD's records are inaccurate and/or incomplete, so will the information that is provided to the public under FOIA. This is a violation of both FRA and FOIA.

The Claimant disclosed that HUD not only has incomplete records, but many records are also falsified to hide the condition of the projects and the lack of oversight. In this investigation alone, the investigator(s) had to reach out to HUD to provide documentation because the evidence was not uploaded into the system of record, Laserfiche, documentation was missing from the files to evidence the EHS mitigation and to determine the rationale behind decisions being made. Due to the incompleteness of records, the

investigator had to rely on the branch chiefs rather than the content of the records which is a finding in itself. But the investigator failed to call this out. HUD's records are not reliable nor complete which is a violation of the FRA. If additional verification is needed, pull all of the REAC inspections from the Claimant's projects as well as the 27,000+ projects that HUD service, any action completed should be documented. Start with the REAC inspections, then make your way to EHS notifications, NOV/NOD issuance, reserve for replacement requests, and the list goes on. In one of many GAO reports, The April 2017 Data Act GAO-17-460, HUD's OIG reported that HUD had been unable to resolve data quality issues that have impeded the complete and accurate reporting of contracts, grants, loans, and other financial assistance awards. This statement is also true to the servicing of MFH projects and record keeping practices. GAO has been calling out opportunities for HUD to improve areas of concerns including but not limited to data quality, REAC, and oversight on various processes.

Not only are HUD records incomplete, they are falsified to hide the conditions of the projects and the lack of oversight. While employed with the agency, the Claimant was required to close out tasks that did not have supporting documentation to warrant nor support the closure. To make sure the accounts were documented correctly the Claimant noted that the closure was due to management and noted the manager(s)' name. The claimant was then told not to document names on the accounts so she began to document the initials of the manager who advised her to close the items. She was eventually advised not to note either to just close them out as she was told. This information was disclosed to the investigators; yet, the investigators did not provide evidence that documentation of the system of record was reviewed. This was a common thing in the office and it can be verified. Pull all of the REAC inspections on every project in Claimant's portfolio (82). Now look at each project and pull the notes from every screen for each project in iREMS, see if the projects that do not have evidence to support EHS mitigation had any notes stating that the EHS items were mitigated. Compare the inspections to the records of each project. Over 50% of the project inspections reviewed in the Claimant's portfolio did not have a signed owner's certified that the EHS items were mitigated; yet, the accounts were noted that the EHS items were mitigated. Don't just stop at the inspections nor the EHS items, there are notifications for each project. Now review all of the inspections on the 27000+ projects to clean up all the data integrity issues relating to the REAC inspection. The data integrity issues are not just on REAC inspections, this is consistent across the servicing of the projects through the HUD portfolio.

HUD publishes REAC inspections for the public to use, project records are also available for the public to review with a FOIA request. Projects are missing inspections and project records are falsified and incomplete which has or is likely to cause substantial injury to owners, tenants, and the general public. Everyone has to rely on HUD to furnish the records so the injuries are unavoidable.

HUD's FRA and FOIA concerns goes much deeper than just REAC documentation and it touches every aspect of the MFH oversight:

- Project records are missing original closing documents that govern the project. HUD is required to have a central location to store documents. During this investigation, the investigator had to contact the staff to look up information that could not be located in the records. In some cases, the documents were located which means the documents are not housed in the proper location.
- Daily decisions are being made via telecommunications that are not entered into the project record. Rationale behind decisions are not consistently documented in the records.

Overall REAC Conclusion

GAO conducted an investigation of the REAC process and determined that HUD should improve the physical inspection process and oversight of the inspectors. The investigation stopped at the inspectors

and did not include HUD's oversight requirements and processes once the inspection was completed. There needs to be a full independent investigation to include evaluation of required notices that must be provided to the owners and the tenants, EHS mitigation process, re-inspection process, and the record keeping process. Once the investigation is complete, there needs to be oversight to ensure truly uncover just how many families are impacted and provide some relief to these families. They deserve to live in safe and healthy living conditions.

HUD has failed and is failing to protect these low income families and doing a great job at covering it up by falsifying reports to Congress and publishing those reports for the public to see, falsifying project records to show EHS item mitigation that have not been mitigated, failing to send out required notices, and the list goes on. While HUD has taken steps to improve the Claimant's portfolio to make it appear gross mismanagement, abuse of authority, and danger to public health and safety were not evident, the evidence substantiates Claimant allegations. Not only are the Claimant's disclosures valid, HUD does not have a plan to identify and address the risks of noncompliance with physical condition standards, keeping the public safe, and making sure properties who have been deemed not decent, safe, or sanitary are held accountable. The Federal internal control standards state that agencies should identify, analyze, and respond to risks related to achieving the defined objectives. HUD must comply with these standards and put effective controls in place to mitigate these risks and there needs to be oversight and accountability to ensure this occurs (long term resolution strategy).

HUD Failed to Properly Identify Portfolio

Columbia Apts (800020788) is the project in question for this review for lack of oversight, lack of servicing, and payment of vouchers for vacant units. The Claimant disclosed that all projects in her portfolio were not being serviced correctly. The documentation that HUD provided in Exhibit 8 iREMS Record is incomplete. The notes from the system is cut off so the Claimant cannot review it and are incomplete. This investigation into this incident is missing too many documents to make a determination and it must be re-investigated. Let's take a look at what we do have.

The agency falsified notes they supplied for this review. Turn to page 20 of the Exhibit 8 iREMS Record.Redacted Names document, the agency typed in the date 06/02/2015 and manager with a similar font as the original text. The Claimant entered the notes on the account in 2018. In order to conduct a thorough review, the agency must provide copies of original un-redacted documents and notes from iREMS.

The city condemned one unit of the project on September 23, 2015. How could this go undetected for over 3 years? HUD must do more to bridge the gap and communicate with city and other government agencies to help mitigate the risks and ensure the general safety. The engineer report that the property manager submitted to support assistance request and decline in occupancy was dated 2012.

REAC

According to the MFH inspection report pulled from www.hud.gov, Columbia Apartments has three listed inspections: 9/17/2014 scored a 61c; 11/24/2015 scored a 89c; and 6/10/2019 scored a 51c. The first inspection listed was two years after an engineer report (2012) noted severe settlement concerns. There were settlement cracks so wide, they can be seen for more than 50 feet away from the building. The project received a passing score of 61c on 9/17/2014 with EHS items. There is no evidence of those EHS items being mitigated. There was no follow through and no notations on the account to suggest that there were attempts to mitigate the EHS items and the EHS items went unresolved for over a 14 months. How

could this project pass an inspection when the settlement was so severe that the owners need an engineer to come out to inspect the damages? That question is still a mystery. This property passed an inspection with severe physical defects. HUD failed to ensure the safety of the tenants and the REAC inspection process is proven to be inadequate and defective.

The second inspection was two months late and it came just two months after the city condemned one of the units on the project. Columbia received another passing score of 89c on 11/24/2015 with more EHS items which also went unresolved. This is now two passing inspections on a property that has severe settlement defects that have warranted the owner(s) to obtain an engineer report to assess the condition and the city to deem a unit uninhabitable, unsafe and unfit to live in. This property passed another inspection with severe physical defects. There was no follow through and no notations on the account to suggest that there were any attempts to mitigate the EHS items and the EHS items went unresolved for almost four years. HUD again failed to ensure the safety of the tenants and the REAC inspection process is proven to be inadequate and defective.

The third inspection would not be performed until almost four years later. This was after owner(s) obtained an engineer report, after the city condemned a unit and the owner(s) decided to close a whole build due to safety concerns, after the property failed a MOR inspection, and after the project manager requested assistance for fear that more buildings were in the same condition with settlement concerns (11/2018). Almost seven months after the property manager requested assistance and informed HUD of the property condition, an inspection was performed on the project. The project failed this inspection with a 51c score and more EHS items were sited. As of the November 18, 2019 report from HUD, the EHS items still have not been mitigated and no re-inspection has been ordered. To date, HUD has failed to ensure the safety of the tenants and the REAC inspection process has proven to be inadequate and defective. There is no urgency and the buildings are steady declining. The tenants are living in unsafe conditions and HUD has turned a blind eye at least nine years. The length of time may be longer; older inspections are needed to assess the exact amount of time.

The Branch Chief denied the request to order an inspection on the project three times since 11/2018. It was not until this allegation that the agency went into action to review this project. The agency has discretion to deny the request for an inspection, but that didn't make it right nor did it make legal. HUD was legally required to complete the inspection within two years of the prior inspection (11/24/2015) and the decision to deny the (already past due) inspection request was not only wrong but unlawful, put lives in danger, and caused harm to many families. HUD does not have detailed procedures to address noncompliance or to determine when enforcement decisions may be needed when management makes unlawful decisions. According to federal internal control standards, agencies should implement control activities through policies and procedures. Effective design of procedures to address noncompliance would include documenting specific actions to be performed by agency staff when deficiencies are identified and related time frames for these actions.

MOR

MOR was conducted by SHCC on 8/2/2018 and the property received an unsatisfactory rating with a total score of 56. There were more than 175 findings from this inspection and the findings remained unresolved for more than 10 months. Prior to this MOR, there hasn't been a MOR in over 7 years. The Claimant does not know the prior MOR rating and score at the time of the review. However, SHCC and HUD failed to adequately monitor this project and ensure the safety of the tenants.

AFS

According to the notes from 6/19/2019, the Annual Financial Statement for Columbia Apartments has been flagged with compliance issues since at least 2011 for the Tenant Security deposit account not being fully funded; each year was corrected once auditor found issue; and is listed as a repeat finding from prior year, indicating a major trend of non-compliance. Per 24 CFR § 880.608 - Security deposits, paragraph (b), "The owner must place the security deposits in a segregated, interest-bearing account. The balance of this account must at all times be equal to the total amount collected from the families then in occupancy, plus any accrued interest."

Every year dating as far back as 2011, there has been red flags and HUD failed to follow internal procedures and provide effective oversight. There was a trend that HUD overlooked and turned a blind eye to. This is a common trend in the agency and HUD does not have a plan to identify and address the risks of noncompliance with Annual Financial Statements and Tenant Security deposit accounts. HUD does not have detailed procedures to address noncompliance with Annual Financial Statements and Tenant Security deposit accounts or to determine when enforcement decisions may be needed. According to federal internal control standards, agencies should implement control activities through policies and procedures. Effective design of procedures to address noncompliance would include documenting specific actions to be performed by agency staff when deficiencies are identified and related time frames for these actions.

DOCUMENTS

Governing documents were either missing or expired from the record at the time of disclosure. The following documents were not found in the record as of March 14, 2019:

- HUD 9839 for both the owner(s) and management agent
- Management Agent Agreement
- Bonding insurance listing HUD as additional payee
- Hazard insurance listing HUD as additional payee

HUD is not permitted to waive these requirements and the documents are required to be in the records.

SERVICING HISTORY

Prior to the project being assigned to the Claimant, the project was serviceably abandoned by the agency. There were no follow ups made on the MOR, REAC inspections, no evidence of calls made to the owner/property manager, outdated and/or missing documents. HUD failed to issue NOV/NOD for 2014 & 2015 EHS items that were never mitigated nor is there evidence that the tenants were notified as required by law. In reviewing the iREMS notes that the agency provided, there wasn't any discussions with the owners/management agents since 2015. That's three years without any documented notes for the AEs. The agency didn't even perform oversight on the alarming yearly trend of AFS violations.

After Claimant filed an OSC complaint, the project has been monitored closely. MOR deficiencies have been mitigated, NOD was issued for the failed 6/2019 REAC inspection, and the project has been placed on an action plan. There is still no additional evidence or resolution to the EHS items nor the status of the 20 unit's subsidy funds.

INSURANCE

In November 2018, the project manager advised that the property cannot be insured due to the condition of the property and as of June 2019 HUD was still waiting on the engineer report. There was no evidence of hazard or bonding insurance in the records; yet, the agency cited on page 11 of the Cover letter and Report 11.18.2019 that there is documentation of insurance coverage. There was no evidence of an active

insurance policy provided during this review and no notations of an insurance policy being requested or received in the evidence that the agency provided. Either the records are incomplete or the agency falsified data on this report to discredit Claimant's claim on the condition to the portfolio, either way the agency must provide documentation to support their claim that the project has an active general liability insurance policy and fidelity insurance policy. The policies must list HUD as an additional payee and the policies must be located in the records on or before March 14, 2019 to be valid at the time of disclosure.

At the time of disclosure and review, there was no evidence of an active hazard nor fidelity insurance policy that listed HUD as an additional payee. HUD is not permitted to waive the insurance requirements. The insurance requirements are in place to protect the investment (the project), the investors, and the owners and there are laws prohibiting waivers of such requirements. The Branch Chief is on a recording the Claimant provided to the investigators as well as OSC using the managerial discretion that MFH depends so heavily on to waive the insurance requirement that HUD is not permitted to waive. The Branch Chief said that she talked to her agent and we are not going to worry about it. The Branch Chief forbid the Claimant from getting the insurance requirement satisfied then used that information to terminate the Claimant for failure to demonstrate her fitness or qualifications for continued employment. Now, HUD has admitted in this investigation that they do not have the right to waive the insurance requirement. The investigator goes on to say here was no observed losses related to this unlawful waiver; this is a factually inaccurate statement. The investigators nor the agency have conducted a full review over all of the projects that HUD has serviced over the years to determine the damages, but once this report is published, there will be many FOIA requests, investigations, and law suits from multiple agencies and State Attorney Generals. Yes, there was harm, the Claimant was terminated from the agency for attempting to follow the regulations and the number of projects loss and mortgage insurance claim payments due to this, has yet to be determined. This is not just one case, the insurance waiver process is managed the same as the REAC inspection, EHS mitigation, the management agreement, and management certification processes are managed. HUD is relying on the branch chiefs to use arbitrary and capricious decision-making without implementing effective controls that are outlined in the policies, procedures, and SOW that the staff can use to make those decisions.

This is not an isolated event as there are thousands of loans does not have the required hazard and/or fidelity bond insurance and with no formal process, policy, procedure, or SOW in place the inconsistent treatment has and will continue. There are also several Unfair Deceptive Act or Practice (UDAP) violation.

- What makes something "Unfair" must satisfy all three elements:
 - Element 1: It either cause or is likely to cause substantial injury to customers (monetary or non-monetary)
 - Element 2: The customer cannot reasonably avoid the injury
 - Element 3: No other benefit to consumers or competition exist that justify the act or practice

- What makes something "Deceptive" must satisfy all three elements:
 - Element 1: A representation or omission of facts that either misleads or is likely to mislead a customer, whether or not it was made with good intentions or with malice
 - Element 2: The customer's interpretation is reasonable under the circumstances
 - Element 3: The misleading representation, omission, act or practice is "material"

HUD also violated the Federal Records Act (FRA) which requires HUD to “create and maintain authentic, reliable, and usable records and ensure that they remain so for the length of their authorized retention period. Agencies “must prescribe the creation and maintenance of” records that

- document the persons, places, things, or matters dealt with by the agency;
- facilitate action by agency officials and their successors in office;
- make possible a proper scrutiny by Congress or other duly authorized agencies of the government;
- protect the financial, legal, and other rights of the government and of persons directly affected by the government’s actions;
- document the formulation and execution of basic policies and decisions and the taking of necessary actions, including all substantive decisions and commitments reached orally (person-to-person, by telecommunications, or in conference) or electronically; and
- document important board, committee, or staff meetings.

The records are designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency’s activities. It’s important to ensure that the records are accurate as the public has access to the records under the Freedom of Information Act (FIOA). If HUD’s records are inaccurate and/or incomplete, so will the information that is provided to the public under FOIA. This is a violation of both FRA and FOIA.

The evidence supports the Claimants position and HUD has agreed MFH is not permitted to waive insurance requirements. Therefore, Claimant’s allegations of arbitrary and capricious decision-making and abuse of authority are unsupported.

SUBSIDY PAYMENT

This investigation relied solely on responses from HUD and SHCC both of which have a stake in the outcome of the investigation. There is no evidence of the investigator pulling and supplying the TRACS reports from 2015 to present. Also review the AFS from 2015 to present to compare the subsidy amounts. Compare this information with the individual tenant vouchers to see if owner vouchers are consistent with the tenant voucher. There must be tenant certifications included in the files as well to show where the tenant moved too. This investigation cannot operate on the word of anyone, the documentation must be pulled from the system of records, TRACS.

The data in the email suggest that the data was tampered with as the date format is not consistent and contains errors. Per iREMS HAP contract records, the rents show they were still paid out. The investigator reached out to HUD instead of pulling the data from TRACS. HUD then contacted SHCC instead of pulling the data from TRACS (page 33 of Exhibit 1 from investigator). Also pull the MORs and REAC inspections to see the building and unit status to determine when the units became vacant.

HUD was also incorrect in stating that Section 8 rent subsidies cannot be simply carved from contract budget authority and transferred to tenant(s) or other projects. Some of subsidy in question has been sitting between 2-5 years and have not been used. There are options and HUD should have explored those options years ago. Subsidy funds are limited and should not be sitting around while other projects are in need of those funds to house low income families. HUD does not have detailed procedures to address unused subsidy funding or to determine when enforcement decisions may be needed. According to federal internal control standards, agencies should implement control activities through policies and procedures.

Effective design of procedures to address noncompliance would include documenting specific actions to be performed by agency staff when deficiencies are identified and related time frames for these actions.

From the information provided, it looks as if the city condemned the unit 9/2015, but the tenants lived in unsafe conditions until 3/2016. The following items are needed to conduct a thorough investigation:

1. All SOWs, policies, and procedures governing this process.
2. A complete iREMS history including but not limited to screenshots of all the notes on every screen in every tab for the project.
3. Copies of all REAC inspections all pages including attachments.
4. Copies of all MORs all pages including pictures.
5. Copies of all requests verbal and in writing from 2015- present
6. Copies of all communication from 2015- Present including all emails.
7. The voucher history for the owner from 2014-present pulled directly from TRACS.
8. The voucher history for each tenant in the 20 units from the time the tenants moved into the unit until present pulled directly from TRACS.
9. Rent roll and TRAC submissions from 2014 to present.
10. Copy of the city condemn documentation all pages.
11. All pages of all the documentations and telecommunication between HUD and the property owners/management agents.

Management Agent Approval Process & Fidelity Bond Requirements

In the management agent approval process HUD is required to determine if the management agent has adequate fidelity bonding in an amount at least equal to two months of project gross income. MFH is not permitted to waive this requirement. In assuring that adequate protection is provided, the management agent and property owner must certify in the management certification (HUD-9839-B) that it carries fidelity bond coverage naming HUD as an additional payee. There are some inconsistencies in the requirements listed in Handbook 4381.5 and the HUD- 9839 (A, B, & C). The Handbook 4381.5 states that the management agent must certify in the management certification that it carries fidelity bond coverage must name the mortgagee and HUD as additional loss payees. The HUD-9839 stated that Fidelity bonds and hazard insurance policies will name HUD as an additional payee in the event of loss.

HUD failed to include email from Claimant on 10/15/2019- REAC 1A Email to Investigators REAC and Insurance. Email evidences Claimant informed the agency that the disclosures are being minimized. The Claimant initially stated that HUD as a whole, that disclosure was reduced to only the Claimant's portfolio then later reduced to 9 projects that the Claimant had to name. The agency failed to include this email in the evidence because it will show that the allegations are being minimized and reduced to a bare minimum. All 82 projects must be reviewed in addition to all projects that are in HUD's entire portfolio.

The purpose of the requirement is protect HUD, the investors, and the tenants by reducing mismanagement. An expired policy does not protect anyone. Although the investigator only reviewed 9 projects out of the Claimant's portfolio, the results substantiated the Claimant's allegation and highlighted another risk, expiring policies. Eight (8) out of (9) policies were expired at the time of the report issuance and the last one could not be confirmed as there was no date listed on the spreadsheet for that project. The investigator stated that to the extent policy endorsement pages were expired, there is no known policy guidance for MFH to collect endorsement pages from management agents on an annual basis, though annual reviews. This is a factually inaccurate statement. According to Handbook 4350.1, the Loan Management staff must maintain an expiration date file for all policies and fidelity bonds. Loan Management Branch Chief should maintain such a "tickler" file to assure that mortgagors renew

required insurance policies on time. Field Offices may use their own systems, either computerized or manual, to achieve this objective. Whatever control system is used, no less than the following information should be recorded for each project: Project Name; Project Number; Insurance Company Name(s); Last Date Renewed; Date of the 90-day Letter; Date of Receipt of proof of insurance; Date of any Noncompliance Letter; Date of Review of Insurance Coverage; Date(s) of Follow-up Actions and type(s) of actions.

HUD is not adhering to the requirements nor does HUD have detailed procedures to address noncompliance with fidelity bond policy requirements or to determine when enforcement decisions may be needed. According to federal internal control standards, agencies should implement control activities through policies and procedures. Effective design of procedures to address noncompliance would include documenting specific actions to be performed by agency staff when deficiencies are identified and related time frames for these actions.

Management Agent Approval Process & Hazard Insurance Requirements

Every project owner and management agent are required to have a Management Certification, HUD-9839 (A, B, or C) to certify the required insurance policies and bonds are maintained. MFH is not permitted to waive this requirement. HUD must review the associated documents and verify the information is correct before approving the management certification. To this end, HUD must review the active insurance and bond policies as it relates to approving or denying Management Certification.

As for HUD-Held projects, where HUD holds the note due to lender assignment or where HUD is the lender of record as a function of finance, the Loan Management Branch Chief assures required insurance is in place. Loan Management Branch Chief should maintain such a "tickler" file to assure that mortgagors renew required insurance policies on time. Field Offices may use their own systems, either computerized or manual, to achieve this objective. Whatever control system is used, no less than the following information should be recorded for each project: Project Name; Project Number; Insurance Company Name(s); Last Date Renewed; Date of the 90-day Letter; Date of Receipt of proof of insurance; Date of any Noncompliance Letter; Date of Review of Insurance Coverage; Date(s) of Follow-up Actions and type(s) of actions.

HUD failed to include email from Claimant on 10/15/2019- REAC 1A Email to Investigators REAC and Insurance. Email evidences Claimant informed the agency that the disclosures are being minimized. The Claimant initially stated that HUD as a whole, that disclosure was reduced to only the Claimant's portfolio then later reduced to 1 project. The agency failed to include this email in the evidence because it will show that the allegations are being minimized and reduced to a bare minimum. All 82 projects must be reviewed in addition to all HUD-Held projects that are in HUD's entire portfolio.

HUD is not adhering to the requirements nor does HUD have detailed procedures to address noncompliance with HUD-Held insurance policy requirements or to determine when enforcement decisions may be needed. According to federal internal control standards, agencies should implement control activities through policies and procedures. Effective design of procedures to address noncompliance would include documenting specific actions to be performed by agency staff when deficiencies are identified and related time frames for these actions.

INCIDENT REPORTS SOW

The Branch Chief confirmed that HUD has an internal incident report process that does not have a written policy, procedure, nor SOW. According to Federal Internal Control Standards, agencies must implement control activities through policies and procedures. As if violating the Federal Internal Control Standards

wasn't bad enough, the branch chief's actions also violated the Federal Records Act. The Federal Records Act (FRA) requires HUD to "create and maintain authentic, reliable, and usable records and ensure that they remain so for the length of their authorized retention period. Agencies "must prescribe the creation and maintenance of" records that

- document the persons, places, things, or matters dealt with by the agency;
- facilitate action by agency officials and their successors in office;
- make possible a proper scrutiny by Congress or other duly authorized agencies of the government;
- protect the financial, legal, and other rights of the government and of persons directly affected by the government's actions;
- document the formulation and execution of basic policies and decisions and the taking of necessary actions, including all substantive decisions and commitments reached orally (person-to-person, by telecommunications, or in conference) or electronically; and
- document important board, committee, or staff meetings.

The records are designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities. It's important to ensure that the records are accurate as the public has access to the records under the Freedom of Information Act (FOIA). If HUD's records are inaccurate and/or incomplete, so will the information that is provided to the public under FOIA. This is a potential violation of FICS, FRA, and FOIA so far. In order to add policies, there are well-established rules detailing how agencies can and can't go about changing their own policies and adding new ones. There is a law called the Administrative Procedure Act (APA) that sets these rules out pretty clearly, and HUD broke these rules in multiple ways, and it's not really a close call. This one act is a potential violation of four known rules- FICS, FRA, FOIA and APA.

With all processes, there must be documented steps, and escalation procedures to protect the rights of all involved. The investigator stated, "Additionally, MFH does not maintain a SoW for incident reports and Claimant could not provide such a document in support of her allegation." The fact that HUD has a process that it does not maintain a SOW for supports the Claimant's position.

This fire occurred 1-2 years prior, but there was never any documentation of the incident. The Branch Chief didn't want to document the incident because it would bring up questions that nobody wanted to answer such as why the incident report was late and why the branch chief and her team follow the undocumented process.

[Management Agent Approval Process and Backdating Certifications](#)

Every project owner and management agent are required to have a Management Certification, HUD-9839 (A, B, or C), and a management agreement (if there is a management agent). To understand the Claimant's disclosure and HUD violations, we must take a deep dive into the requirements.

In the HUD-9839, the agent and owner certify that HUD requirements and contract obligations will be complied with, and that an acceptable Management Agreement will be executed. This document lists the agreed upon fees, term of agreement, and insurance requirements among other things. This document also provides the required disclosure so it cover's the agency and its regulatory requirements. MFH is not permitted to waive this requirement.

Projects with identity-of-interest agents or independent fee agents must execute a Management Agreement. An Agreement is recommended, but not required, for owner-managed projects or projects

managed by a project administrator. The Management Agreements cannot contain “hold harmless” clauses have required content and prohibited content and they must have the following provisions to be bound by them:

- a. HUD has the right to terminate the Management Agreement for failure to comply with the provisions of this Certification, or other good cause, thirty days after HUD has mailed the owner a written notice of its desire to terminate the Management Agreement.
- b. In the event of a default under the Mortgage, Note or Regulatory Agreement, HUD has the right to terminate the Management Agreement immediately upon HUD’s issuance of a notice of termination to the Owner and Agent.
- c. If HUD exercises this right of termination, I, the Owner, agree to promptly make arrangements for providing management that is satisfactory to HUD.
- d. If there is a conflict between the Management Agreement & HUD’s rights and requirements, HUD's rights & requirements will prevail.
- e. If the Management Agreement is terminated I, the Agent, will give to the Owner all of the project's cash, trust accounts investments and records within thirty (30) days of the date the Management Agreement is terminated. MFH is not permitted to waive either of the requirements.

As with HUD-9839, MFH is not permitted to waive this requirement. HUD failed to adhere to these requirements by failing to address expired or missing management certifications and by failing to require management agreements include required contract clauses related to fees and termination rights. HUD investigation confirmed that the risks exist and supports the Claimant’s position.

The Claimant’s disclosure was not just on one project, but for her portfolio as a whole along with HUD’s portfolio as a whole. HUD must review all the HUD – 9839 (A, B, and/or C) for both the owner(s) and the management agents, pull the management agreements, and contact all parties. As documented in earlier sections of this report, the data in iREMS is unreliable to say the least. In order to know if the management agent is correct, someone has to make contact and find out when the agent started working with the project. There are control gaps in the system and HUD cannot afford to look the other way. Nor can HUD afford to just put out a blank statement as the one the investigator gave, “HUD needs to reference required contract clauses in management agreements upon contract renewal or when appropriate. This will strengthen Owner’s ability to terminate the management agent arrangement at will or at the direction of HUD”. That is what HUD was required to do in the first place. One of the projects went 11 years before the noncompliance was caught. This is not just a one off occurrence, this is an alarming trend and controls need to be put in place to mitigate this risk.

La Posada del Rey Apartments 800236117

This project changed management companies without notifying HUD back on July 1, 2017 due to the lack of oversight it took HUD over 2 years to catch this. Then it took another 6 months to make the correction. Claimant supplied email chain that followed a meeting the Claimant and Branch Chief had with the project and the chain supports the Claimant’s position that the Branch Chief approved the project to backdate the management certification HUD-9839 to 7/1/2018 which was before the Claimant’s hire date. The Claimant rejected the management agreement because the new management agreement did not have the required language and HUD doesn’t not have the authority to waive this requirement. MFH knew this project was out of compliance in November 2018. The Claimant attempted to resolve the noncompliance issue, but the Branch Chief used her managerial discretion to not only stop the Claimant, but use this project as a pretext to terminate the Claimant’s employment for applying the requirements to this loan. This project would remain out of compliance for another 6 months (May 2019). HUD attempted to reduce the disclosure to just this one project, but it took over 2 years before HUD even knew there was

a need for a new management agreement then the branch chief used managerial discretion to waive a requirement that HUD does not have the authority to waive. This is not just one case, the unauthorized waiver process is managed the same as the REAC inspection, EHS mitigation, the management agreement, and management certification processes are managed. HUD is relying on the branch chiefs to use arbitrary and capricious decision-making without implementing effective controls that are outlined in the policies, procedures, and SOW that the staff can use to make those decisions.

This is not an isolated event as there are thousands of loans that are out of compliance due to outdated documents, unauthorized waivers, and overall lack of oversight and controls. With no formal process, policy, procedure, or SOW in place the inconsistent treatment has and will continue. There are also several Unfair Deceptive Act or Practice (UDAP) violation as the prohibited hold harmless language is not required on all loans due to this. Some owners have options that others don't which is a violation of UDAP. The waivers were not documented in the records which is a violation of

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Point Royale 800231711

Point Royale (800231711) – This project had an unauthorized loan which was obtained in order for the owners to qualify for the refi- which is completely prohibited, the management fee was higher than the management fee in the system, no evidence of hazard or fidelity insurance, the management agreement did not include the required language and there were inconsistencies in the vacancy rate. HUD was made aware of these conditions in 12/2018. The investigator stated there were no compliance issues regarding expired management contracts in this instance, but what the investigators failed to mention was that the agent was getting paid a higher fee than what was listed in the management certification. The management certification did not list the additional fees on either page on the agreement, so they had to update the document to reflect to agreed upon fees. HUD's lien position was in question because there wasn't any evidence of the loan on file and the project sent in several different contracts but neither was executed nor contained customary information. The Branch Chief told Claimant to stop investigating in December 2018 and told the Claimant to move on as she would handle it. It wasn't until February 2019 when the owners requested to resume paying the loan, that the Branch Chief took the file to Legal to get some advice and ensure compliance with this unauthorized loan. HUD violated multiple laws and regulations along with HUDs own internal processes and notices.

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on the owners and the agents due to the continuous default. The impact of the flags are huge; these flags place restrictions on the owners/agents ability to manage/purchase more properties. This is not an isolated event as there are countless other loans that have unauthorized loans, with no controls in place the inconsistent treatment has and will continue.

HUD investigation confirmed that the risks exist and supports the Claimant's position.

Tidwell Estates 800244087

Management fees listed in the system of record, on the HUD 9839 and the management agreement does not match. The management fees have been incorrect since 4/28/2000 which means it took HUD 19 years to find and attempt to correct this issue. The branch chief's reason for not doing her job and conducting a thorough review was that the loan was a refi so she didn't question the fees. One of the many functions the MFH division has is to properly review documents and ensure compliance. The branch chief used her managerial discretion again to go against company policy and override the requirement to grant an exception that she didn't have the authority to make. All loans must be thoroughly reviewed for compliance. As a result, HUD failed to render consistent approvals. As you can see, this is not a one off scenario, it is a trend that has crossed HUD's MFH portfolio as a whole. The portfolio is not being serviced properly and on a daily bases, multiple violations can be sited.

Monthly Accounting Reports Review Process

Monthly accounting reports are useful tools for evaluating a project's performance and monitoring compliance. MARS reviews have helped HUD recover millions of dollars in inappropriately used funds such as unauthorized disbursements, unauthorized loans and helped strengthen the monitoring of HUD projects. However, the review is an internal process that are not required by a known statue and the handbooks allows HUD to use management discretion to require submission. This discretion is not detailed, nor are parameters in place to ensure consistency. Management Discretion doesn't make a decision legal and all decisions must comply with the laws and regulations governing the agency. HUD must detail management discretionary rules to include parameters around decision making. There must be a base for the decision. For example, two similarly situated projects are being reviewed and the only difference is one is in a troubled neighborhood and one is in a well taken care of neighborhood. The troubled neighborhood project is required to submit MARS reviews and the other neighborhood was not required to submit MARS. This act is a possible violation of UDAP and discriminatory. The risks and possible damages are too large to leave up to management without proper policies and procedures in place to mitigate those risks.

The Federal Internal Control Standards state that agencies should identify, analyze, and respond to risks related to achieving the defined objectives. HUD must comply with these standards and put effective controls in place to mitigate these risks.

MARS are tools used to identify unauthorized loans like in the case of Point Royale (800231711). The investigator submitted several emails for this project but failed to investigate and document the history and findings in the report.

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SOW in place the inconsistent treatment has and will continue. There are also several Unfair Deceptive Act or Practice (UDAP) violation.

- What makes something “Unfair” must satisfy all three elements:
 - Element 1: It either cause or is likely to cause substantial injury to customers (monetary or non-monetary)
 - Element 2: The customer cannot reasonably avoid the injury
 - Element 3: No other benefit to consumers or competition exist that justify the act or practice

This case: Yes, the action was unfair as the customers was and are being harmed, HUD did not disclose necessary information for the customer to make an informed decision, and there are no additional benefits that justify any of HUDS actions.

- What makes something “Deceptive” must satisfy all three elements:
 - Element 1: A representation or omission of facts that either misleads or is likely to mislead a customer, whether or not it was made with good intentions or with malice
 - Element 2: The customer’s interpretation is reasonable under the circumstances
 - Element 3: The misleading representation, omission, act or practice is “material”

This case: HUD failed to inform the customer of options and reserve for replace escrow account.

Section 223(f) Critical and Non-Critical Repair Escrow Releases

The Investigator overlooked all of the evidence that the Claimant provided, the system of record (notes), SOW , policies, procedures, handbook, notices, and mortgagee letters. Then made a determination based on the branch chief’s word and interpretation of the requirements.

Section 223(f) loans all have a list of required origination documents that govern the loan and the allocation of funds. One of those documents is a PCNA. Section 223(f) loans have critical and non-critical repairs that must be completed. The critical repairs have to be completed prior to closing and non-critical repairs are completed within a year of final endorsement (this time may be extended). The repairs are all listed out, a repair schedule is made, a PCNA is agreed upon, and an escrow is setup to houses the non-critical repair funds. The only way those non-critical repair funds can be released is through a withdrawal request that HUD must approve. The request must accompany receipts and supporting documentation that HUD is required to review. HUD has sole control over this account and no funds can be disbursed without HUD’s approval. The approval or denial is issued, a copy of the document is uploaded to Laserfiche, and the account is documented of the transaction. The production dept. handles the non-critical repair funds and the Asset Management dept. handles reserve for replacement requests.

Reserve for replacement (RFR) is another escrow account that HUD has sole control over. The customers cannot withdrawn funds until HUD approves the disbursement. The difference between the two is the reserve for replacement has a monthly deposit requirement that is governed by the Reg. Agreement. The RFR is for the life of the loan and it serves to replace capital items and is serviced by the Asset Management department. There are no procedures that document the steps needed when asset Management reserves a RFR and the customer has non-critical repair funds. There are SOWs, handbooks, notices, policies, and training material that lists out the requirements for processing RFR. All of which have different variations of the requirements and steps to process the RFR which is our first problem. HUD has total control over millions of dollars and they don’t have consistent procedures to follow to ensure consistency in the handling of the funds. According to Federal Internal Control

Standards, agencies must implement control activities through policies and procedures. As if violating the Federal Internal Control Standards wasn't bad enough, the branch chief's actions also violated the Federal Records Act. The Federal Records Act (FRA) requires HUD to "create and maintain authentic, reliable, and usable records and ensure that they remain so for the length of their authorized retention period. Agencies "must prescribe the creation and maintenance of" records that

- document the persons, places, things, or matters dealt with by the agency;
- facilitate action by agency officials and their successors in office;
- make possible a proper scrutiny by Congress or other duly authorized agencies of the government;
- protect the financial, legal, and other rights of the government and of persons directly affected by the government's actions;
- document the formulation and execution of basic policies and decisions and the taking of necessary actions, including all substantive decisions and commitments reached orally (person-to-person, by telecommunications, or in conference) or electronically; and
- document important board, committee, or staff meetings.

The records are designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities. It's important to ensure that the records are accurate as the public has access to the records under the Freedom of Information Act (FIOA). If HUD's records are inaccurate and/or incomplete, so will the information that is provided to the public under FOIA. This is a potential violation of FICS, FRA, and FOIA so far. In order to add policies, there are well-established rules detailing how agencies can and can't go about changing their own policies and adding new ones. There is a law called the Administrative Procedure Act (APA) that sets these rules out pretty clearly, and HUD broke these rules in multiple ways, and it's not really a close call. This one act is a potential violation of four known rules- FICS, FRA, FOIA and APA.

With all processes, there must be documented steps, and escalation procedures to protect the rights of all involved. The branch chief is on recording stating that the handbook and SOW are both old and doesn't get used consistently.

The only way a RFR and non-critical repair disbursement can be made is if, HUD approves it. HUD uses management discretion which is not detailed, nor are parameters in place to ensure consistency. Management Discretion doesn't make a decision legal and all decisions must comply with the laws and regulations governing the agency. HUD must detail management discretionary rules to include parameters around decision making. There must be a base for the decision. For example, two similarly situated projects submit a RFR withdrawal for \$50k. Project A disbursement is approved while Project B is declined and required to use the non-critical repair funds. This goes on for 12 months. After the 12-months, Project A withdraws the remainder of the non-critical repair funds free and clear while the operating account was drained. Project B was required to use the non-critical funds for what they were sent aside for and the project's operating account is in a healthy state and available to use to do repairs as needed. Whether it's \$500 or \$2million, the requirements and treatment must be the same and if it isn't That act is a possible violation of UDAP and discriminatory. The risks and possible damages are too large to leave up to management without proper policies and procedures in place to mitigate those risks.

This is not an isolated event as there are thousands of loans that have non-critical and RFR escrow accounts and with no up-to-date formal process, policy, procedure, or SOW in place the inconsistent treatment has and will continue. There are also several Unfair Deceptive Act or Practice (UDAP) violation.

- What makes something "Unfair" must satisfy all three elements:

- Element 1: It either cause or is likely to cause substantial injury to customers (monetary or non-monetary)
 - Element 2: The customer cannot reasonably avoid the injury
 - Element 3: No other benefit to consumers or competition exist that justify the act or practice
- What makes something “Deceptive” must satisfy all three elements:
 - Element 1: A representation or omission of facts that either misleads or is likely to mislead a customer, whether or not it was made with good intentions or with malice
 - Element 2: The customer’s interpretation is reasonable under the circumstances
 - Element 3: The misleading representation, omission, act or practice is “material”

The director is on recording stating that the RFR statement of work is not regional specific so that is the reason for allowing managerial discretion. Contrary to what the agencies thinks, HUD employees are not allowed to omit requirements and replace them with managerial discretion. There are well-established rules for how agencies can and can't go about changing their own policies. There is a law called the Administrative Procedure Act that sets these rules out pretty clearly, and HUD broke these rules on more than one occasion.

HUD violated the Fair Housing Act, by using “geographical” inputs such as a good neighborhood vs a bad neighborhood to serve as a proxy for a protected class, giving HUD a green light to discriminate. HUD cannot use protected class statuses such as race, gender, or religion as factors to predict risk or make business decisions. By using location to determine where or not the agency approves a request, the agency inevitably creates grouping defined by their protected class.

HUD also does not keep accurate reports. The investigator had to contact HUD several times to get documents that were not in the system of record and the system of records are not documented each time an action is completed as required.

Auburn Creek (800245098)

The project is a Section 223(f) that has a PCNA and a repair schedule. In the report that HUD issued, the investigator stated that the Claimant’s position on the use of funds is in error, but failed to lay out the facts and apply the requirements.

- The SOW states review the project’s Project Capital Needs Assessment (PCNA) and the Reserve for Replacement account schedule attached to the Firm Commitment to determine whether the requested items should have been paid using the Critical or Non-Critical Repair Escrow or another escrow in lieu of Reserve for Replacement funds.
 - There was a PCNA and schedule on file.
 - At the time of the RFR request, the project had \$1,480,842.11 sitting in their Non-critical Repair escrow account which was placed there for the repairs. HUD had a copy of the statement at the time the branch chief used her managerial discretion to overlook the requirement.
 - The RFR tool control was thrown to the side. The tool recommended for the agency to review the most recent PCNA to determine if items must be paid with escrow funds instead of the RFR funds.
 - The PCNA was reviewed and it was determined that non-critical repair escrow must be used in this case as there were funds available for use. The branch chief used her famous managerial discretion to waive this requirement.

- The project submitted two RFR requests in February and both were approved by the branch chief, all while the owner's had over \$1.48 million sitting in an escrow account to either be used for the repairs that they were set aside for or withdrawn.
- The second RFR request came in just days after the first disbursement was approved. The branch chief used her managerial discretion again this time she waived the more requirements as now the project will have two disbursements and the handbook states one per quarter and repairs must be in the same FYE. The repairs were completed in 6/2018 and the request was 2/2019. The FYE date was 12/2018 which means the repairs were not done in the same FYE.

Over the years GAO has sited HUD on multiple occasions for having insufficient oversight, HUD is issued recommendations, and the actions continue. HUD has complete control over the non-critical repair funds and reserve for replacement funds; yet, the decisions to release those funds are based on how the reviewer feels that day. Millions of dollars are disbursed based on managerial discretion which has been evidenced to be arbitrary, capricious, and discriminatory. The investors, customers, mortgage insurance providers, the public and a host of others rely on HUD to have documented processes in place that comply with all applicable regulations, laws, statues, etc. HUD cannot justify releasing funds from the RFR when there was over a \$1.48 million waiting to be used in the non-critical repair escrow. The decision was arbitrary and capricious. Unfortunately this is not a one off scenario, and millions of dollars are being disbursed with little to no oversight.

[Servicing Delinquent Accounts](#)

HUD does not have a formal policy, procedure, or SOW for servicing default MFH projects nor does HUD follow the general guidance to ensure consistency with the handling of MFH projects who are past due. According to Federal Internal Control Standards, agencies must implement control activities through policies and procedures. As if violating the Federal Internal Control Standards wasn't bad enough, the branch chief's actions also violated the Federal Records Act. The Federal Records Act (FRA) requires HUD to "create and maintain authentic, reliable, and usable records and ensure that they remain so for the length of their authorized retention period. Agencies "must prescribe the creation and maintenance of" records that

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- document the formulation and execution of basic policies and decisions and the taking of necessary actions, including all substantive decisions and commitments reached orally (person-to-person, by telecommunications, or in conference) or electronically; and
- document important board, committee, or staff meetings.

The records are designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities. It's important to ensure that the records are accurate as the public has access to the records under the Freedom of Information Act (FIOA). If HUD's records are inaccurate and/or incomplete, so will the information that is provided to the public under FOIA. This is a potential violation of FICS, FRA, and FOIA so far. In order to add policies, there are well-established rules detailing how agencies can and can't go about changing their own policies and adding new ones. There is a law called the Administrative Procedure Act (APA) that sets these rules

out pretty clearly, and HUD broke these rules in multiple ways, and it's not really a close call. This one act is a potential violation of four known rules- FICS, FRA, FOIA and APA.

With all processes, there must be documented steps, and escalation procedures to protect the rights of all involved. HUD agreed that the project has been delinquent on monthly payments consistently. Each time a payment is late, the owner is charged a late payment fee while HUD has control over the reserve for replacement escrow. The owner has been experiencing hardship for years and HUD received monthly MDDR notification informing the agency of the default status. HUD failed to assist the owner, failed to provide the owner with available options to make an informed decision, failed to provide the owner with required default notices, and failed to follow internal escalation procedures. HUD also failed to make all efforts to avoid mortgage assignment, a FHA claim or partial claim with the continuous delinquent status, all of which was at risk to happen and was warranted as with any loan in this default state.

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This case: Yes, the action was unfair as the customers was and are being harmed, HUD did not disclose necessary information for the customer to make an informed decision, and there are no additional benefits that justify any of HUDS actions.

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 - Element 2: The customer’s interpretation is reasonable under the circumstances
 - Element 3: The misleading representation, omission, act or practice is “material”

This case: HUD failed to inform the customer of options and reserve for replace escrow account.

In Closing, HUD investigation confirmed that the risks exist and supports the Claimant’s position. Now we need to determine damages. The Claimant’s disclosure was that HUD did not consistently managing and mortgage servicing of MFH portfolio which includes the Claimant’s entire portfolio. Residence at Eagle Pass (800225390) is just one loan. Now we need to pull all loans that have went 30 days past due and see just how many violations there are. For each violation there are civil penalties and the State Attorney Generals may also decision to sue to protect their residence.

Additional Remarks

The director, branch chief, and several SAE can be heard on the voice recording joking about doing just enough not to go to jail. The director can also be heard confirming that the handbooks, policy, procedures, and so on are all outdated which is why Branch Chiefs use managerial discretion to make decisions which should be followed without question. As if that wasn't bad enough, the branch chief can be heard waiving requirements that HUD does not have the authority to waive and stating that she is not an accountant but she can surely make the numbers look convincing. The branch chief goes on to say that she has been in the branch cheap meetings and she knows that the branch Chiefs are not looking at what they approve and they are not signing the documents because they do not want their names attached. This branch chief has been with the agency for over 30+ years and have been demoted and promoted all while continuing to make arbitrary decisions without consequences.

The agency knows about the arbitrary decisions the branch chiefs are making and the directors are encouraging it. The GAO has stepped in to stop HUD from implementing discriminatory guidelines, So HUD has found a loophole around this and decided not to go through the approval process of implementing changes. Now HUD has made changes without going through the proper process. Wells Fargo was in the news and was hit with a one billion dollar lawsuit from various agencies that joined forces to make a statement, to take a stand to protect customers from this same time of acts and practices the Claimant has evidenced in this investigation. HUD has broken and is continuing to break countless laws, rules, statutes, regulations, and acts which has and will harm investors, mortgage insurance companies, customers both past and present, tenants, and many more. The depth of this fall out won't be known until an independent investigation is conducted over all of HUD's MFH practices.

HUD Failed to Properly Train Staff

The Asset Management department lacks adequate controls to provide risk based monitoring and oversight to control fraud, waste, abuse and mismanagement. In the first two weeks of my employment, I was given a portfolio of properties that I was told to manage using the Handbook 4350.1 and old training modules by my branch chief. He also told me the material is old but it would give me an idea of what to do.

HUD failed to properly train their staff and provide up-to-date reference material. As a new employee, you are overloaded with old modules, outdated references guides, statement of work, and handbooks. The material all come with disclosures that the material is old but pick what you can use from it and ask your peers and branch chiefs if you have questions. As a new employee, you don't know what information you actually need and what information you can disregard. Over the course of my employment with the agency, the lack of controls became more evident and the excessive use of subjectivity more alarming. I sat with several Account Executives (AEs) and rendered approvals and rejections differently and the branch chiefs also were not consistent. I asked several AEs to review the same exact document and each came to a different conclusion. Some AEs could point me to guidance material while others just state this is how the branch chief likes it. The new hires received some training, but we were trained with old material that came with warnings to take what you can use from the material and ask our co-workers and/or the branch chief if we had questions. This was across the board from management documents to escrow account withdrawals.