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OWNER OF BUY-A-HOME REAL ESTATE BROKERAGE SENTENCED IN MANHATTAN FEDERAL COURT TO 70 MONTHS IN PRISON FOR PARTICIPATING IN MULTI-MILLION DOLLAR MORTGAGE FRAUD SCHEME AND COMMITTING PERJURY

Cohen Will Also Pay a $2.7 Million Judgment and Be Permanently Barred from Real Estate Transactions Involving Federally Insured Loans as Part of Civil Settlement

Preet Bharara, the United States Attorney for the Southern District of New York, announced that MITCHELL COHEN, the owner of the now defunct Buy-A-Home real estate brokerage business, was sentenced today in Manhattan federal court to 70 months in prison for participating in a multi-million dollar mortgage fraud scheme and for committing perjury. COHEN was indicted in July 2012 and pled guilty in December 2012 to one count of conspiracy to commit mail, wire and bank fraud and one count of perjury in connection with statements he made in a civil lawsuit filed against him by this Office. COHEN was sentenced today before U.S. District Judge Denise L. Cote.

Mr. Bharara also announced that the Office reached a settlement of its lawsuit against COHEN in which he admitted to conspiring with others to secure federally-insured mortgage loans through fraud. Under that settlement, a $2.7 million judgment will be entered against COHEN, and he will be permanently barred from participating in real estate sales involving federally-insured mortgages and from any advertising, marketing, or solicitation of business involving such sales. The settlement was approved by U.S. District Judge Lorna G. Schofield.

Manhattan U.S. Attorney Preet Bharara stated: "The egregious conduct for which Mitchell Cohen was sentenced today helped contribute to the home mortgage crisis and to FHA's dire financial straits, and it also caused many home buyers to lose homes they could ill afford in foreclosure proceedings. He will now answer for his crimes with jail time and multi-million dollar criminal and civil penalties. This case is a prime example of how our Office uses every legal tool in our toolbox – both criminal and civil – to punish those who engage in mortgage fraud."

According to the Indictment and statements made during court proceedings:

COHEN's Mortgage Fraud Scheme

From 2007 through 2010, the U.S. Department of Housing and Urban Development's Federal Housing Administration ("HUD-FHA") provided mortgage insurance to borrowers seeking residential mortgages. Unlike conventional loans, FHA-insured loans required little cash investment from borrowers and were more flexible in income and payment ratio requirements. To qualify for FHA mortgage insurance, a potential borrower had to meet HUD requirements regarding his or her creditworthiness and ability to make mortgage payments. No undisclosed payments could be made or promised in connection with a residential mortgage transaction. At all relevant times, certain private lenders were authorized to make commitments for the provision of FHA mortgage insurance on behalf of HUD. They did so through the execution and ultimate submission to HUD of various mortgage documents, forms, and supporting documentation. Because FHA-backed mortgages were valuable commodities, lenders typically sold them to banks that pooled them and then resold them to institutional investors.

From April 2007 through October 2010, COHEN operated a real estate brokerage business in Queens, New York known, at various times, as Buy-a-Home, LLC and First Home Brokerage, LLC ("Buy-a-Home"). Buy-a-Home employed several sales managers, as well as a number of sales agents who recruited clients to purchase homes who were usually first-time home buyers. COHEN and Buy-a-Home employees facilitated the sales of the homes by preparing documentation to secure FHA-insured loans to fund the borrowers' purchases.

During that time period, COHEN engaged in a widespread conspiracy to defraud HUD into issuing FHA mortgage insurance and to defraud banks into purchasing the FHA-backed mortgages issued to Buy-a-Home's clients in order to earn substantial profits. Through entities he controlled, COHEN bought, or promised sellers he would buy, homes at one price, and then he and others at Buy-a-Home recruited unsophisticated buyers of modest means and induced them into purchasing the same homes at inflated prices, which were typically $100,000 higher than the original sale price. To insure that the deals for these properties would go through, COHEN and others schemed to make the Buy-a-Home clients – who did not and could not qualify to receive FHA mortgage insurance – seem more creditworthy. In furtherance of this scheme:

- COHEN directed Buy-a-Home employees to pay off borrowers' debts, often with cash funneled through bank accounts of borrowers' relatives, in order to make the borrowers appear more creditworthy and to make it seem that their debts had been paid by an appropriate source;

- COHEN directed Buy-a-Home employees to provide cash to borrowers so that they could obtain certified checks falsely showing that they had sufficient funds to close;

- COHEN directed borrowers' relatives to sign false gift affidavits to make it seem that the borrowers' debts had lawfully been paid off, or the borrowers' funds for closing had been appropriately provided by relatives, when in fact they had unlawfully paid off the debts themselves or through Buy-a-Home; and

- COHEN advised borrowers to make other false statements on loan applications submitted to HUD.

In so doing, COHEN concealed the borrowers' true financial condition from HUD and the banks that subsequently bought the FHA-backed mortgages, all in an effort to insure that they and Buy-a-Home could profit from the deals. COHEN also made mortgage payments on behalf of certain borrowers to further conceal their financial condition and to prevent banks from enforcing their right to sell loans back to the lenders that first provided the borrowers with mortgages.

Through this scheme, COHEN defrauded HUD into issuing, and banks into purchasing, millions of dollars in fraudulent loans. Furthermore, because the FHA insurance was based on false statements made to HUD, and the borrowers could not really afford their mortgages, many of the homes went into foreclosure proceedings, forcing HUD to pay out $1,574,259.43 million in insurance payments.

COHEN'S Perjury in the Civil Mortgage Fraud Action Against Him

In December 2010, the U.S. Attorney's Office for the Southern District of New York filed a civil complaint against COHEN, the mortgage lender, and the appraisers who helped him orchestrate the fraud at Buy-a-Home. On December 29, 2010, the District Judge presiding over the civil action entered a preliminary injunction barring COHEN from participating in real estate sales involving HUD-insured mortgages and any advertising, marketing, or solicitation of business involving such mortgages.

Subsequently, in October 2011, the Government moved for a finding of civil contempt against COHEN, alleging that he willfully violated the preliminary injunction by re-establishing Buy-a-Home under a new name – Y-Rent New York, LLC ("Y Rent") – which was nominally owned by COHEN's wife and another individual, but was in fact operated by COHEN. In connection with his opposition to the contempt motion, COHEN filed a declaration in November 2011 in which he falsely stated, under penalty of perjury, that he was not involved with Y Rent, did not train Y Rent's salespeople, did not take certain types of business calls, and did not speak to prospective borrowers. In December 2011, COHEN was held in contempt for having willfully violated the injunction against him in the civil action

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In addition to the prison term, Judge Cote sentenced COHEN, 55, of Old Westbury, New York, to three years of supervised release. COHEN was also ordered to forfeit $7,515,966, and to pay $1,574,259.43 in restitution to HUD-FHA. He will surrender on June 28, 2013, at 2:00 p.m. The civil judgment against COHEN consists of $2.2 million in damages and $500,000 in penalties. COHEN's civil settlement is the fifth and final settlement in the civil action. In four prior settlements entered in 2011 and 2012, the Government recovered $1.55 million in damages and penalties from the lender and the appraisers. The lender, the lender's principals and key employees, and the appraisers all agreed to be barred from all HUD programs either permanently or for a term of up to 10 years.

Mr. Bharara praised HUD-OIG and FHFA-OIG for their outstanding work in the investigation.

This case was brought in coordination with President Barack Obama's Financial Fraud Enforcement Task Force, on which Mr. Bharara serves as a Co-Chair of the Securities and Commodities Fraud Working Group. The task force was established to wage an aggressive, coordinated and proactive effort to investigate and prosecute financial crimes. With more than 20 federal agencies, 94 U.S. attorneys' offices and state and local partners, it's the broadest coalition of law enforcement, investigatory and regulatory agencies ever assembled to combat fraud. Since its formation, the task force has made great strides in facilitating increased investigation and prosecution of financial crimes; enhancing coordination and cooperation among federal, state and local authorities; addressing discrimination in the lending and financial markets and conducting outreach to the public, victims, financial institutions and other organizations. Over the past three fiscal years, the Justice Department has filed nearly 10,000 financial fraud cases against nearly 15,000 defendants including more than 2,900 mortgage fraud defendants. For more information on the task force, please visit www.StopFraud.gov.

This matter is being handled by the Office's Complex Frauds Unit and the Civil Frauds Unit. Assistant U.S. Attorneys Janis Echenberg and Nicole Friedlander are in charge of the criminal case, and Assistant U.S. Attorneys Li Yu and Cristine Phillips are in charge of the civil case

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