

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAMILTON SECURITIES GROUP, INC.,
802 Rhode Island Avenue, N.E.
Washington, D.C. 20002-1292

Plaintiff.

v.

No. _____

U.S. DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT
OFFICE OF INSPECTOR GENERAL
451 7th Street, S.W., Room 8260
Washington, D.C. 20410-4500

Defendant.

AFFIDAVIT OF [REDACTED]

I, [REDACTED], being of legal age and sound mind state as follows:

1. From January 1, 1995 to February 20, 1998, I was employed by the Department of Housing and Urban Development, Office of Inspector General's ("OIG") Rocky Mountain Field Office located in Denver, Colorado. From May 26, 1996, to February 20, 1998, I was a senior auditor for the OIG.

2. As a senior auditor, I was responsible for a team of auditors assigned to audit HUD programs. Before joining the HUD OIG, I was a senior audit specialist for the Resolution Trust Corporation ("RTC") OIG.

3. In late 1995, the OIG Headquarters in Washington, D.C. instructed the Rocky Mountain Field Office to begin collecting information on HUD's then-ongoing loan sale program for the purpose of developing audit objectives. The OIG typically conducts audits of HUD programs to evaluate HUD's performance.

4. I understood that the audit was assigned to the Rocky Mountain field office because of my experience in auditing similar programs at the RTC.

5. Between August and October 1995, I spent approximately two weeks at HUD headquarters collecting documentation on the loan sale program and conducting preliminary interviews with key personnel at HUD and HUD's contractors for the loan sale program.

6. I then submitted five or six audit objectives for the loan sale program to the Assistant Inspector General of Audit ("AIGA"), who later instructed the Rocky Mountain field office to assign a full staff and proceed with the audit.

7. Included in the objectives I submitted was an evaluation of HUD's process and procedures for awarding contracts related to the loan sale program. Based on my experience at the RTC, I anticipated that this audit objective would result in the most significant findings. However, the AIGA instructed the Rocky Mountain field office not to pursue this objective and said the work would be done by the Capital District Field Office.

8. The Denver Regional Inspector General for Audit (W.D. Anderson) and Assistant Regional Inspector General for Audit (~~Mr. [redacted]~~) had overall responsibility for managing the audit. I was lead auditor responsible for defining the audit scope and methodology, and designing and implementing audit steps and procedures, which were subject to the review and approval of ~~Mr. [redacted]~~ and/or ~~Mr. [redacted]~~. My Denver-based audit team included auditors ~~Mr. [redacted]~~, ~~Christine [redacted]~~, ~~[redacted]~~ and ~~[redacted]~~.

9. From January 1996 through September 1996, the Denver audit team conducted a thorough audit of HUD's process and procedures for managing the loan sale program. The audit involved interviews of numerous HUD staff and contractors involved

in loan sales, evaluations of HUD's internal procedures, and detailed analysis of the financial data.

10. The audit objectives did not include an evaluation of the performance of any of the contractors involved in the loan sale program. However, we did review aspects of the program that were designed and/or performed by HUD's contractors, and in particular by HUD's lead financial advisor for the program, Hamilton Securities Group, Inc.

11. Over the course of about 9 months, the Denver audit team interviewed at least 20 individuals, comprising a broad cross-section of parties associated with the loan sale program. We interviewed numerous HUD staffers and program contractors, including ~~XXXXXXXXXX~~, ~~XXXXXXXXXX~~ and ~~XXXXXXXXXX~~ of Hamilton Securities.

12. Because the loan sales were an ongoing program, we not only reviewed records from previous loan sales, but also over the course of 9 months we were able to personally observe the loan sale program in action. For example, other members of the audit team and I sat in on the bid selection process for a single-family loan sale in 1996.

13. Over the course of the audit fieldwork, we made recommendations to HUD management for improvement in HUD's process and procedures for managing the loan sale program. However, my audit team came to the overall conclusion that the loan sale program was a successful example of government re-engineering, which was providing considerable benefits for taxpayers.

14. Proceeds from the loan sale program significantly exceeded the government's return on defaulted loans from the prior systems of negotiated workouts and/or foreclosure and sale of the property. By selling off the loans prior to foreclosure, HUD was eliminating the costs associated with carrying the properties.

15. In June or July of 1996, Ervin & Associates, one of HUD's property management contractors, began making allegations of wrongdoing in HUD's management of the loan sale program. Because of these allegations, the OIG began an investigation to determine whether the allegations were true. The investigation was handled by a team of investigators, auditors, and legal counsel from OIG headquarters, and was a separate effort from the audit.

16. Over the course of several weeks, staff from the Denver audit team met periodically with the investigation team to discuss the allegations, the scope of the audit, and whether the results of the audit included any evidence that supported the validity of the allegations being made. OIG Counsel Judith Hetherington or auditor James Martin of the investigation team were primarily responsible for communicating with the audit team.

17. In each of these meetings the audit team clearly communicated to the investigation team that nothing had come to our attention during the audit that supported the allegations made by Ervin & Associates. However, the investigation team repeatedly questioned the audit team about the scope and results of the audit. It seemed that Ms. Hetherington or members of the investigation team were certain that the audit team would find evidence of bid-rigging or other allegations raised by Ervin & Associates.

18. Despite the investigation team's insistence, the audit team found no evidence of wrongdoing on Hamilton's part or by any other company or individual associated with the program. We specifically found no evidence of bid-rigging, fraud or corruption. If we had found any such evidence, we would have referred it to the investigators at that time per standard OIG procedures, and continued with the audit.

19. By August 1996, the Denver audit team had compiled a considerable volume of in-depth research, analysis, interview notes and other workpapers relating to our audit

of the loan sale program. We had drafted a report on the credit reform aspect of the loan sale program that we shared with OIG Headquarters. The report included a few findings and recommendations regarding credit reform; however, the overall tone of the report was favorable.

20. At this time we were getting close to wrapping up the fieldwork on the other audit objectives, and throughout the fieldwork we had verbally discussed with HUD staff several findings and recommendations for improvement in HUD's process and procedures for managing the loan sale program. We were planning on issuing a second audit report that would include these findings and recommendations, but would also state our overall conclusion that the loan sale program was a success.

21. On the day that the audit team was scheduled to meet with HUD staff to discuss the credit reform report, OIG Headquarters' requested the Denver audit team attend a meeting with the investigation team and other staff from OIG Headquarters to discuss the credit reform report. At that meeting, Headquarters' staff directed the audit team to cancel the exit conference with HUD staff, and to suspend any further fieldwork on the audit.

22. My impression was that OIG Headquarters staff did not want to release a report that reflected favorably on the loan sale program until the allegations made by Ervin had been fully investigated.

23. The audit team returned to the Denver field office and continued to complete as much of the remaining audit work that we could without being able to request any additional documentation or conduct any further interviews.

24. During the week of November 4, 1996, I traveled to Washington, D.C. with [REDACTED] and [REDACTED] to question Headquarters' directive that we perform no further fieldwork.

25. We met with Kathryn Kuhl-Inclan and voiced the objection of the Rocky Mountain Field Office to Headquarters' decision to stop the fieldwork, and asked Ms. Kuhl-Inclan what the basis was for the decision.

26. Kathryn Kuhl-Inclan responded by saying that the Inspector General did not want the audit team talking to individuals who were also being questioned by investigators. However, we were already done with most of the interviews needed to finalize the audit.

27. In December 1996, Headquarters ordered the Denver audit team to assemble all of the workpapers for the loan sales audit and send them to Headquarters, which we did. Copies of the workpapers and other related documentation were retained at the Denver office and were there when I left the OIG in February 1998.

28. The audit paperwork that the Denver audit team prepared and/or compiled -- including the documents that were sent to Washington, D.C. and the documents that remained in the Denver office -- were prepared/compiled for the purpose of accomplishing the audit objectives, and do not reveal any wrongdoing by parties associated with the loan sale program.

