Issue Date
May 7, 2008
Audit Report Number
2008-SE-1004

TO: Brian D. Montgomery, Assistant Secretary for Housing – Federal Housing Commissioner, H

Joan S. Hobbs

FROM: Joan S. Hobbs, Regional Inspector General for Audit, Region X, 0AGA

SUBJECT: A Plus Mortgage, Inc., Tukwila, WA, Overcharged Borrowers and Allowed Independent Contractors and Unapproved Branches to Originate Loans

HIGHLIGHTS

What We Audited and Why

We audited A Plus Mortgage, Inc. (A Plus), to determine whether (1) the fees charged to Federal Housing Administration (FHA) borrowers by A Plus were appropriate under U.S. Department of Housing and Urban Development (HUD), FHA, and Real Estate Settlement Procedures Act (RESPA) regulations and (2) the loan officers originating FHA-insured loans were employees of A Plus.

What We Found

A Plus disregarded HUD FHA requirements and provisions of RESPA and engaged in deceptive lending practices to maximize profits for itself and the independent contractors that used A Plus as a conduit for submission of loans for FHA insurance. Although it informed borrowers that they could receive a lower interest rate on their loans by paying up-front points and fees, A Plus charged loan discount fees to borrowers without reducing interest rates on the mortgages. This practice allowed A Plus to generate high interest rate loans for which A Plus's sponsor lenders paid A Plus a yield spread premium when the loans closed escrow. As a result, borrowers paid excessive interest and fees for which they received no associated benefit.

In addition, all 28 FHA-insured A Plus loans reviewed were originated by independent contractors, unapproved branches, or other non-FHA-approved mortgage broker firms. This condition occurred because A Plus ignored FHA origination requirements and submitted FHA loans originated by unapproved entities in exchange for a percentage of the loan origination fees, loan discount fees, and yield spread premiums generated by the loans.

What We Recommend

We recommend that you require A Plus to (1) return unearned and excess yield spread premiums, loan discount fees, and other fees, totaling $153,110, to the borrowers; (2) review and analyze all other FHA-insured loans generated by A Plus with loan discount points when no interest rate reduction occurred, report the results to the Mortgagee Review Board, and issue refunds to the borrowers; (3) discontinue charging loan discount fees when it receives yield spread premiums on a loan; (4) cease changing the names of fees from the initial disclosure to the final HUD-1 settlement statement; (5) instruct its loan officers to ensure that the borrowers clearly understand the nature of all charges associated with their loans; (6) return all loan origination fees, totaling $32,036, to the borrowers on all loans that were originated by third-party independent contractors; (7) only submit loans for FHA insurance that were originated by A Plus employees; and (8) register all of its branch offices with FHA.

We also recommend that you consider taking other appropriate administrative sanctions against A Plus.

For each recommendation without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-3.

Please furnish us copies of any correspondence or directives issued because of the audit.

Auditee's Response

We provided our discussion draft to A Plus on April 3, 2008, and held an exit conference on April 4, 2008. A Plus generally disagreed with our report findings.

The complete text of the auditee's response, along with our evaluation of that response, can be found in appendix B of this report.

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BACKGROUND AND OBJECTIVES

The U. S. Department of Housing and Urban Development (HUD) authorized A Plus Mortgage, Inc. (A Plus), as a nonsupervised loan correspondent lender on August 11, 2004. Only A Plus's home office, located at 7200 South 180th Street, Suite #103, Tukwila, Washington, had been approved by HUD to process and originate Federal Housing Administration (FHA) loans. Its FHA mortgagee identification number is 21888-0000-2.

During our audit period, May 2005 through May 2007, A Plus originated 60 FHA loans totaling almost $12 million. We reviewed 28 of the 60 FHA loans originated during our audit period.

Our objectives were to determine whether (1) the fees charged to FHA borrowers by A Plus were appropriate under HUD, FHA, and Real Estate Settlement Procedures Act (RESPA) regulations and (2) the loan officers for the loans reviewed were employees of A Plus.

RESULTS OF AUDIT

Finding 1: A Plus Charged Excessive Fees to Borrowers

A Plus disregarded HUD FHA requirements and provisions of RESPA and engaged in deceptive lending practices to maximize profits for itself and the independent contractors who used A Plus as a conduit for submission of loans for FHA insurance. Although it informed borrowers that they could receive a lower interest rate on their loans by paying up-front points and fees, A Plus charged the loan discount fees to borrowers without reducing the interest rates on the mortgages. This practice allowed A Plus to generate high interest rate loans for which A Plus's sponsor lenders paid A Plus a yield spread premium when the loans closed escrow. Further, A Plus did not always disclose the yield spread premiums in its good faith estimates and sometimes confused borrowers by changing the names of fees in the loan documents. As a result, borrowers paid excessive interest and fees for which they received no associated benefit.

HUD Requires Meaningful and Timely Disclosure of Mortgage Terms and Costs

In Mortgagee Letter 2001-26, HUD noted that meaningful disclosure of yield spread premiums, as early as possible in the mortgage origination process, will avoid confusion and enable borrowers to make informed choices. The mortgage transaction is necessarily complicated, and most people engage in such transactions relatively infrequently. Timely disclosure of up-front costs and mortgage terms would permit them to shop intelligently. In its Statement of Policy 2001-1, HUD issued a clarification of the importance of disclosure with a description of best practices.

Regulations at 24 CFR [*Code of Federal Regulations*] 201.2 define discount points as "a fee charged by the lender, separate from interest but part of the total finance charges on the loan that is part of the lender's total yield on the loan needed to maintain a competitive position with other types of investments. One discount point equals one percent of the principal amount of the loan. As discount points on the loan increase, the interest rate can be expected to decrease in a fairly consistent relationship."

A Plus Used Mortgage Loan Origination Agreements to Explain Interest Rates and Discount Fees

Premium pricing occurs when the lender sells a loan to an investor with an above-par interest rate and receives a rebate (yield spread premium) from the investor. Disclosure of the relationship of loan discount fees and yield spread premiums was made to the borrowers on all 28 of the insured loans reviewed by way of a mortgage loan origination agreement (agreement) between A Plus and each borrower. These agreements were printed on A Plus letterhead and were signed by the borrowers and the loan officers. The agreements stated:

> "The lenders whose loan products we distribute generally provide their loan products to us at a wholesale rate. The retail price we offer you, the interest rate, total points and fees – will include our compensation. In some cases, we may be paid all of our compensation by either you or the lender. Alternatively, we may be paid a portion of our compensation by both you and the lender. For example, in some cases, if you would rather pay a lower rate, you may pay higher up-front points and fees. Also, in some cases, if you would rather pay less up-front, you may be able to pay some or all of our compensation indirectly through a higher interest rate, in which case, we will be paid indirectly by the lender…."

This statement clearly indicated to borrowers that they would receive a lower interest rate by paying higher up-front points and fees and that they would pay lower up-front fees in exchange for accepting a higher interest rate loan.

A Plus Disregarded Its Mortgage Loan Origination Agreements

A Plus did not always follow the provisions of the agreements. It received yield spread premiums from its sponsor lenders for all 28 of the loans reviewed, indicating that the loans had above-market interest rates. In accordance with the agreements, the borrowers should have expected that the yield spread premiums covered the compensation due to A Plus and that their interest rates would be lowered when they paid higher up-front points and fees. However, as shown in the following schedule, for 19 of these loans, A Plus received yield spread premiums from its sponsor lenders, and the borrowers also paid loan discount points and other fees to A Plus.

FHA case no.	Loan origin. fee	Loan discount fee	Yield spread premium	Added broker fee	Net paid to A Plus/ % of loan amt.	Note
561-8275604	$ 935	$3,043	$3,084	$3,545	$10,607 / 5.7%	
562-2046136	$1,457	$2,469	$3,513		$ 7,439 / 5.1%	
561-8278635	$1,230	$2,360	$2,497		$ 6,087 / 5.0%	
561-8292126	$1,995	$2,073	$5,960		$10,028 / 4.9%	
562-2049727	$1,530	$2,074	$3,882		$ 7,486 / 4.9%	
561-8308646	$1,665	$2,065	$4,014		$ 7,744 / 4.6%	
561-8284753	$2,205	$1,119	$6,155		$ 9,479 / 4.3%	
561-8282112	$1,400	$1,957	$3,915		$ 7,272 / 3.8%	
561-8315965	$3,152	$1,090	$7,599		$11,841 / 3.8%	
561-8161367		$1,497	$6,691		$ 7,442 / 3.7%	1
561-8252480	$1,900	$2,520	$2,170	$495	$ 7,085 / 3.7%	
561-8315516	$1,405	$1,112	$2,317		$ 4,755/ 3.4%	2
561-8304752	$1,045	$1090	$ 795		$ 2,930 / 2.8%	
561-8225722	$1,662	$ 831	$2,531		$ 4,535 / 2.7%	3
561-8298555	$1,040	$1,110	$3,431		$ 5,581 / 2.7%	
561-8270990	$3,508	$1,780	$4,005		$ 9,293 / 2.6%	
561-8295825		$1,095	$ 483	$1,588	$ 3,166 / 2.5%	
561-8270484	$2,174	$1,090	$1,379		$ 4,643/ 2.1%	
562-2043697	$1,016	$1,095	$1,016		$ 3,127 / 1.6%	
Totals	$29,319	$27,548	$65,437	$5,628	$130,540	

Notes:
1 $746 of the fees and other costs shown were applied to borrower costs at closing.
2 $79 of the fees and other costs shown were applied to borrower costs at closing.
3 $489 of the fees and other costs shown were applied to borrower costs at closing.

A Plus Did Not Always Disclose Yield Spread Premiums and Changed the Names of Fees in the Loan Documents

In 14 of the 28 loans reviewed, A Plus failed to disclose in its original good faith estimates that it would receive yield spread premiums from its sponsor lenders at the loan closings. Additionally, the nature and purpose of fees paid to A Plus became confusing to borrowers because A Plus sometimes used different names or descriptions of a fee in the good faith estimates or other disclosure documents than it used in the HUD-1 settlement statement. The following table gives examples of how the names of fees varied from one document to another.

FHA case no.	Original good faith estimate	Final HUD-1
562-2049727	Loan discount 1.000% $1,530	Discount broker fee to A+ Mortgage $2,074
	Yield spread premium (0-4%) $6,120	Mrtg brkr Fee From NCB to A Plus Mortgage $3,882
561-8308646	Loan Origination fee 1.600% $2,664	Broker Origination Fee – A Plus Mortgage $ 1,665
	Loan Discount + $1,090	Broker Discount – A Plus Mortgage $2,065
	Yield Spread Premium 0-3% no dollar amount shown	Mortgage Broker Fee pd by NCB to A Plus Mortgage $4,014
561-8282112	Loan origination Fee + $1,400	Broker Origination Fee – A Plus Mortgage $1,400
	Loan discount 1.000% $1,957	Discount Fee – A Plus Mortgage $1,957
	Yield Spread Premium 1.492% $2,877	Mortgage Broker Fee from NCB – A Plus Mortgage $3,915
561-8252480	Loan Origination Fee 1.000% $1,825	Loan Origination Fee to A+ Mortgage Inc. $1,900
	Loan Discount 1.000% $1,825	Broker Fee $2,520
	None disclosed	Yield Spread Premium to A Plus Mortgage Inc. $2,170
561-8315516	Loan Origination Fee 1.000% $1,590	Broker. origination fee $1,405
	None disclosed	Yield Spread Premium $2,317

We interviewed the borrowers of three insured loans. For one A Plus loan, the borrowers told us that they had never bought a house before and that it was frustrating to see some of the name changes of the yield spread premium that occurred from one document to another. The borrowers also said that the loan officer did not want to give them time to read all of the loan application documents including the A Plus origination agreement that they signed. After reading the agreement during our interview, the borrowers said that it appeared as though if they wanted to have lower payments, they could pay a loan discount and if they paid a higher interest rate, some of the money from that higher interest rate could help them with their closing costs up front. However, in their case, the loan discount that the seller paid did not lower their interest rate, and they did not receive any reduction in their costs from the yield spread premium collected by A Plus at the loan closing.

Regarding another A Plus loan, the borrowers said, “It looks like we paid twice for some of these costs. When we paid a loan discount that should have lowered the interest rate and then we paid a mortgage interest rate that was higher than the market rate, we paid twice for the amount that we paid in the form of a loan discount, because it would offset some of the cost associated with the higher interest rate over the long haul.” The borrowers stated that the loan officer did not fully disclose the nature of the payments in a clear manner, which would have helped to make the loan process much less confusing for them. They also commented that the way in which these costs were presented to them and then misstated on the final HUD-1 made it impossible to follow. They further noted that they felt rushed in the loan application signing process and did not have enough time to digest the information on the forms signed.

In another loan, the borrowers were charged a $1,665 broker origination fee and a $2,065 broker discount, and the loan generated a $4,014 yield spread premium paid to A Plus. The borrowers told us that they felt that the disclosure of the dollar amounts and what they were paying for were "poorly represented as well as misrepresented" to them and in the case of the yield spread premium, that it had not been disclosed to them at all. They said that neither of them was well educated and they were disappointed that these costs had not been explained to them in language that they could understand. They noted that the loan officer was a "fast talker" and rushed them through the loan document signing process.

Fees to Borrowers Can Only Be Charged for Actual and Necessary Services

Section 8(a) of RESPA prohibits the giving or accepting of any portion, split, or percentage of any charge made or received for the rendering of a real estate settlement service in connection with a transaction involving a federally related mortgage loan other than for services actually performed. Services must be actually performed by the entity that received the fee and must be necessary to the transaction and not duplicative of services performed by others involved in the transaction. Also, compensation must be reasonable.

HUD's 1999 Statement of Policy established a two-part test for determining the legality of lender payments to mortgage brokers for table-funded transactions and intermediary transactions under RESPA: (1) whether goods or facilities were actually furnished or services were actually performed for the compensation paid and (2) whether the payments are reasonably related to the value of the goods or facilities that were actually furnished or services that were actually performed. In applying this test, HUD believes that total compensation should be scrutinized to ensure that it is reasonably related to the goods, facilities, or services furnished or performed to determine whether it is legal under RESPA.

It was unclear as to what role A Plus had in putting together the loan origination packages for submission for FHA insurance. Finding 2 describes how A Plus acted as a conduit for insured loans originated by independent contractors who were employed by other lenders, consultants, real estate firms or owned unapproved independent branches. Documents in the loan files indicated that the initial loan origination activity was done by these outside entities and not by A Plus. Thus some of the fees paid may have been for duplicate services. Further, the fees generated were excessive since, in most cases, the borrowers not only paid the regular 1 percent loan origination fee, but also paid loan discount fees, broker fees, and yield spread premiums without receiving any value for these additional fees.

Lenders May Not Pay Mortgage Broker Fees

Paragraph 1-9 I of HUD Handbook 4155.1, REV-5, relates to the disclosure and payment of mortgage broker fees and states: "If the borrower must pay a fee directly to a mortgage broker, that expense must be included in the total of the borrower's cash settlement requirements and appear on the HUD-1 Settlement Statement. (This requirement applies to instances in which the borrower independently engages a mortgage broker to seek financing and pays the broker directly. The payment may not come from the lending institution.)"

All 28 loans reviewed were originated by independent contractors that were not employees of A Plus but were employed by other lenders, consultants, or real estate firms or owned unapproved independent branches (finding 2). Upon loan closing, A Plus received the loan origination fee, loan discount, and other fees and the yield spread premium from the escrow settlement service in the form of a check. Once the escrow check was received by A Plus, its bookkeeper split the total amount of those funds between itself and the independent contractor or unapproved branches that brokered the FHA loans through A Plus. On average, for the 28 FHA loans reviewed, A Plus retained nearly 16 percent of the funds with the remainder going to the independent contractor or unapproved branch as a brokering commission.

Conclusion

A Plus did not fully disclose the nature of the fees charged to FHA borrowers and sometimes changed the names of fees from one loan document to another. As a result, the borrowers did not fully understand the fees paid, and loan proceeds were used to pay for items such as loan discounts and other fees for which the borrowers received no benefit. These excessive fees were generated to allow A Plus adequate funds to pay commissions to outside unapproved brokers for bringing in the FHA loans, while earning a percentage of the fees for acting as a conduit for submission of these loans for FHA insurance.

Recommendations

We recommend that the Assistant Secretary for Housing – Federal Housing Commissioner require A Plus to

1A. Return unearned and excess yield spread premiums, loan discount fees, and other fees, totaling $153,110, to the borrowers of the loans shown at appendix C.

1B. Review and analyze all other FHA-insured loans generated by A Plus with loan discount points when no interest rate reduction occurred and report the results to the Mortgagee Review Board. Refunds should be issued to the borrowers.

1C. Discontinue charging loan discount fees when it receives yield spread premiums on a loan.

1D. Cease changing the names of fees from the initial disclosure to the final HUD-1.

1E. Instruct its loan officers to ensure that the borrowers clearly understand the nature of all charges associated with their loans.

We also recommend that the Assistant Secretary for Housing – Federal Housing Commissioner:

1F. Refer A Plus Mortgage to the Mortgagee Review Board for consideration of administrative sanctions and/or civil money penalties for the violations of HUD requirements disclosed in this finding.

Finding 2: A Plus Allowed Independent Contractors and Unapproved Branches to Originate Insured Loans

Contrary to FHA requirements, A Plus acted as a conduit for insured loans originated by independent contractors and unapproved branches. All 28 FHA-insured A Plus loans reviewed were originated by independent contractors, unapproved branches, or other non-FHA-approved mortgage broker firms. This condition occurred because A Plus ignored FHA origination requirements and submitted FHA loans originated by unapproved lenders in exchange for a percentage of the loan origination fees, loan discount fees, and yield spread premiums generated by the loans (finding1). As a result, borrowers paid excessive loan fees, and FHA incurred the risks associated with insuring loans originated by firms and individuals that were not approved or qualified to do so.

Loan Officers Must Be Employees of the Lender

From the issuance of HUD Mortgagee Letter 94-39 on August 9, 1994, through the current requirements of HUD Handbook 4060.1, REV-2, HUD has required that loan officers originating FHA-insured mortgages be employees of the approved lender as well as under the lender's exclusive control and supervision. HUD Handbook 4060.1, REV-2, chapter 2, paragraph 2-9(A), requires loan officers, also known as loan originators, of FHA-insured mortgages to be employees of the lender and be under the lender's exclusive control and supervision. Managers, loan originators, and underwriters may not be independent contractors or contract employees. Compensation of employees may be on a salary, salary plus commission, or commission only basis and includes bonuses.

A Plus Loan Officers Were Independent Contractors

A Plus entered into a loan originator agreement with each of the loan officers involved in the 28 FHA loans reviewed. The agreement stated: "A+ Mortgage, Inc. is a Mortgage Broker and Loan Originator is an Independent Contractor pursuant to RCW19.146.010(7), and not an employee." The A Plus loan officers were paid on a commission-only basis as independent contractors and their income was reported at year-end using IRS Form 1099.

Under HUD regulations, a lender must exercise control and responsible management supervision over its home and branch office employees. HUD Handbook 4060.1, REV-2, paragraph 2-9(D), requires that control and supervision include, at a minimum, regular and ongoing reviews of employee performance and work performed. Since the loan officers were independent contractors and not employees, A Plus did not have supervisory control over the loan officers and could not document that the performance of any of these loan officers had been reviewed.

A Plus Loan Officers Also Worked for or Owned Other Mortgage Firms

A Plus's loan files contained indicators that the loan documents came from other lenders, consultants, or real estate firms. For example, we found faxed loan documents containing the fax numbers and names of the other firms. Further, the listing of branch offices on the A Plus Web site contained e-mail addresses for "branches" that had other company domain names. Examples of these domain names included a large real estate firm in the Seattle, Washington, area and the names of other mortgage companies.

We performed Internet searches on some of the loan officers and found the following instances of dual employment or ownership of other mortgage lenders:

<u>FHA Loan Number 561-8301920</u>
An Internet search on the loan officer's name led to a Web page showing the loan officer representing another non-approved lender located in Shoreline, Washington.

<u>FHA Loan Numbers 561-8315516 and 562-2043697</u>
The loan officer for these loans had a Web page identifying him as the owner/manager of a non-FHA-approved mortgage company.

<u>FHA Loan Numbers 561-8270484, 561-8270990, and 561-8304752</u>
The loan officer for these loans was shown on a Web page identifying her as working for a consulting firm in Tacoma, Washington. This firm specializes in obtaining home loans for clients and helping clients build wealth.

We found that 15 of the 28 loans reviewed were originated by loan officers that were employed by other mortgage or real estate firms (see appendix E). HUD Handbook 4060.1, REV-1, paragraph 2-14, and HUD Handbook 4060.1, REV-2, paragraphs 2-9 and 2-14, require that all loan officers be employed exclusively by only one lender at all times and conduct only the business affairs of that lender. The handbook also prohibits loan officers from working in any other capacity in the mortgage and/or real estate fields. This prohibition includes working for any other lender and from working in the real estate and/or escrow field.

Borrowers Were Not Always Aware That A Plus Was the Originating Lender

We interviewed the borrowers of three A Plus FHA loans and found that the loan application process was conducted at locations that were not offices of A Plus and that the borrowers were not always aware that A Plus was the originating lender.

For one loan, the borrowers told us that the FHA loan application was taken at the office of a consulting and management firm in Tacoma, Washington that was not owned or operated by A Plus. The person who signed the loan documents as a "loan officer" for A Plus gave the borrowers a business card identifying her as an associate of the consulting and management firm. The borrowers told us that this "loan officer" did not conduct the initial loan application interview. The interview was conducted by the wife of the owner of the consulting and management firm who was not an A Plus employee.

The borrowers of another A Plus loan told us that the entire loan application process was conducted by their real estate agent at that agent's office in Renton, Washington. The borrowers also said that they did not realize that they were getting their loan through A Plus. When shown the signature and name of the A Plus loan officer on the loan documents, they stated that they did not meet with or know the person.

For another loan, the borrowers told us that it was not clear to them what role A Plus played in their loan transaction because they did not go to any office of A Plus. They noted that all of their meetings with the loan officer, including the closing of the FHA loan, occurred either at their home or at the home of the loan officer.

Unauthorized Branches Are Prohibited

HUD Handbook 4060.1, REV-2, paragraph 2-14 (A), states that an approved lender is prohibited from engaging an existing, separate mortgage company or broker to function as a branch of the approved lender and allowing that separate entity to originate insured mortgages under the approved lender's FHA number. Such an arrangement constitutes a prohibited branch arrangement. Separate entities may not operate as branches or dba's of an FHA-approved lender. Paragraph 2-14 also prohibits certain employment agreements, including a branch compensation plan that includes the payment of operating expenses by the branch manager, any other employee, or a third party. This prohibition was established in Mortgagee Letter 00-15.

A Plus Had Prohibited Branch Arrangements

When our audit began in July of 2007, A Plus listed 50 branch office locations and one home office on its Web site. It did not notify HUD of the existence of these branch offices and did not receive HUD approval for originating and processing insured loans at these branches. We were told by the president of A Plus that the contact person listed in each branch office's location information was also the branch manager of that office. However, as noted above, the e-mail domain names for the branch managers sometimes were the domain names of other mortgage or realty firms. Thus, these "branch offices" appeared to be other entities not owned or operated by A Plus.

In addition, the agreement between the loan officers and A Plus stated that any error or omission on the loan officer's part, resulting in any monetary penalty to A Plus, was the responsibility of the "loan originator" (i.e., loan officer) and would be charged to that loan officer. The agreement further stated that the loan officer had no authority to encumber A Plus for any financial obligations. If the loan officer ordered any services without first obtaining the FHA borrower's funds, that loan officer was responsible for payment for those services if the FHA borrower did not pay for them. In effect, the agreement created a prohibited branch arrangement between A Plus and the loan officer.

HUD Handbook 4060.1, REV-2, paragraph 2-8, also requires all HUD-approved lenders to pay all operating expenses for its branch offices, including but not limited to equipment, furniture, office rent, overhead, and employee compensation. Nonetheless, the president of A Plus disclosed that his firm did not pay any of its branch office expenses, and that the loan officers and supervisors earning commissions from loans processed through A Plus paid their own expenses.

Conclusion

A Plus disregarded HUD requirements by allowing unsupervised independent contractors and unapproved branches to originate FHA-insured loans. Without adequate control and supervision over the loan originators, A Plus could not provide adequate assurance to HUD that the loans were originated in accordance with applicable origination requirements.

Recommendations

We recommend that the Assistant Secretary for Housing – Federal Housing Commissioner require A Plus to

2A. Return all loan origination fees, totaling $32,036, to the borrowers on all loans that were originated by third-party independent contractors, as shown at appendix D.

2B. Only submit loans for FHA insurance that were originated by A Plus employees. These employees must not have employment elsewhere in the mortgage lending or real estate fields, must be under full supervisory control of A Plus, and must be issued IRS Forms W-2 for any salary or commission earned on an insured loan.

2C. Register all of its branch offices with FHA. Expenses for operating these branch offices must be paid by A Plus, not its employees or outside parties.

We also recommend that the Assistant Secretary for Housing – Federal Housing Commissioner

2D. Refer A Plus Mortgage to the Mortgagee Review Board for consideration of administrative sanctions and/or civil money penalties for the violations of HUD requirements disclosed in this finding.

SCOPE AND METHODOLOGY

Our objectives were to determine whether (1) the loan officers for the loans reviewed were employees of A Plus and (2) the fees charged to FHA borrowers by A Plus were appropriate under HUD, FHA, and RESPA regulations. The criteria for employees of a HUD-approved lender and borrower costs that are acceptable to HUD FHA were found in 24 CFR Parts 202 through 206 and 3500; HUD Handbooks 4000.2, 4060.1, and 4155.1; HUD Policy Statements 1999-1 and 2001-1; and various HUD mortgagee letters.

During our audit period, A Plus originated 60 FHA loans. Of the 60 loans, 31 were active with HUD paper case binders on file. We randomly selected 28 of these for review. Our audit was limited to A Plus's role in the origination of the 28 loans as an approved FHA loan correspondent, and we did not perform a review of the underwriting of these loans.

Each case binder was examined to determine whether the documentation in the binder contained indications that the loan officer involved was working for a business entity other than A Plus. We also reviewed other documentation in the FHA case binders such as the HUD -1 settlement statements to determine the amounts and distribution of any loan origination fees, loan discounts, yield spread premiums, and other costs charged to the borrowers.

Our site work at A Plus's main office in Tukwila, Washington, included a review of the loan and employee documentation on file for the 28 loans. Documents reviewed included IRS Forms 1099, good faith estimates, final HUD-1 settlement statements, escrow instruction sheets, escrow check copies, and A Plus disbursement checks that were issued from the proceeds of respective escrow checks it received from the FHA loan transactions. While on site, we conducted interviews with A Plus staff regarding the employment status of the loan officers and fees collected by A Plus from the loan transactions.

For three of the loans reviewed, we conducted face-to-face interviews with the borrowers at the borrowers' residences. The purpose of these interviews was to determine how and where the borrowers applied for their loans, whether they were aware of which mortgage company would be originating their FHA loans, and whether they fully understood the costs involved in their loans.

Our audit was conducted between July 18, 2007, and February 19, 2008. The audit period covered was May 1, 2005, through May 31, 2007.

We performed our review in accordance with generally accepted government auditing standards.

INTERNAL CONTROLS

Internal control is an integral component of an organization's management that provides reasonable assurance that the following objectives are being achieved:

- Effectiveness and efficiency of operations,
- Reliability of financial reporting, and
- Compliance with applicable laws and regulations.

Internal controls relate to management's plans, methods, and procedures used to meet its mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined the following internal controls were relevant to our audit objectives:

- Originating and processing FHA-insured loans in accordance with HUD requirements.
- Safeguarding the FHA insurance fund from unnecessary risk.

We assessed the relevant controls identified above.

A significant weakness exists if management controls do not provide reasonable assurance that the process of planning, organizing, directing, and controlling program operations will meet the organization's objectives.

Significant Weaknesses

Based upon our review, we believe the following items are significant weaknesses:

- A Plus did not have adequate controls to ensure that it followed HUD requirements when it originated FHA loans (findings 1 and 2).
- A Plus exposed the FHA insurance fund to unnecessary risk because it allowed unsupervised nonemployees to originate FHA loans (finding 2).

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS

Recommendation number	Ineligible 1/
1A	$153,110
2A	$32,036

1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law; contract; or federal, state, or local policies or regulations.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation | **Auditee Comments**

Comment 1

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A+ Mortgage, Inc.

Our name is our quality of service

April 24, 2008

HUD A+ Mortgage Responses

Violation #1: A+ Charged Excessive Fees to Borrowers (Rate sheets are attached)

Comment 1

Item #1: HUD requires Meaningful and Timely Disclosure of Mortgage Terms and Costs. The lender could not disclose the YPS until the investor was identified. At the point the investor was identified, the YPS was disclosed. The lender was prohibited to prematurely disclose the exact amount of the YPS until it was known.

Item #2: A+ Used Mortgage Loan Origination Agreement to Explain Interest Rates and Discount Fees

Item #3: A+ Disregarded Its Mortgage Loan Origination Agreements

FHA Case no.	Loan Origin. Fee	Loan Disc. fee	Yield Spread Premium	Added broker fee	Net paid to A plus %of loan amt.	Note
561-8275604	$ 935	$3043	$3084	$3545	$10607/5.7%	

Comment 2
Comment 3
Comment 4

Borrower: [redacted] A loan origination fee of $935 (.5%) is within FHA guideline. The interest rates the day of lock ranged from a low of 6.375 to a high of 7.25 for an FHA 30Yr Fixed Loan, this loan interest rate locked at 6.375 indicating that the discount fee of $3043 was used to buy down the interest rate. The YSP for 6.375 was 1.75, A+ received a YSP of only 1.65 indicating that the borrower did benefit in a reduced YSP to A+. The added broker fee of $3545 was for an invoice from Horizon Construction Services, Inc. for installation of Advance Magnum Foundation/tie down system on the customers' doublewide manufactured home.

562-2046136	$1457	$2469	$3513		$ 7439/5.1%	

Comment 5
Comment 3

Borrower: [redacted]. A loan origination fee of $1457 (1%) is within FHA guideline. The interest rates the day of lock ranged from a low of 5.75 to a high of 6.625 for an FHA 30YrFixed Loan, this loan interest rate locked at 6.5 indicating that the discount fee of $2469 was used to buy down the interest rate. The YSP for 6.5 was 2.75, A+ received a YSP of only 2.375 indicating that the borrower did benefit in a reduced YSP to A+.

561-8278635	$1230	$2360	$2497		$ 6087/5%	

Comment 6
Comment 3

Borrower: [redacted] A broker origination fee of $1230 (1%) is within FHA guideline. The interest rate the day of lock ranged from a low of 6.25 to a high of 7.125 for an FHA 30YrFixed Loan, this loan interest rate locked at 6.5 indicating that the discount fee of $2360 was used to buy down the interest rate. The YSP for 6.5 was 2.625, A+ received a YSP of only 2.03 indicating that the borrower did benefit in a reduced YSP to A+.

561-8292126	$1995	$2073	$5960		$10028/4.9%	

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Comment 7
Comment 3

Borrower: [redacted]. A broker origination fee of $1995 (<1%) is within FHA guideline. The interest rate the day of lock ranged from a low of 5.75 to a high of 6.625 for an FHA 30YrFixed Loan. The YSP for 6.625 was 3.0, A+ received a YSP of only 2.875 indicating that the borrower did benefit in a reduced YSP to A+.

562-2049727	$1530	$2074	$3882	$ 7486/4.9%

Comment 8
Comment 3

Borrower: [redacted]. A broker origination fee of $1530 (1%) is within FHA guideline. The interest rate the day of lock ranged from a low of 5.5 to a high of 6.625 for an FHA 30YrFixed Loan, this loan interest rate locked at 6.5 indicating that the discount fee of $2074 was used to buy down the interest rate. The YSP for 6.5 was 2.875, A+ received a YSP of only 2.5 indicating that the borrower did benefit in a reduced YSP to A+.

561-8308646	$1665	$2065	$4014	$7744/4.6%

Comment 9
Comment 3

Borrower: [redacted]. A broker origination fee of $1665 (1%) is within FHA guideline. The interest rate the day of lock ranged from a low of 5.5 to a high of 6.625 for an FHA 30YrFixed Loan, this loan interest rate locked at 6.5 indicating that the discount fee of $2065 was used to buy down the interest rate. The YSP for 6.5 was 2.875, A+ received a YSP of only 2.375 indicating that the borrower did benefit in a reduced YSP to A+.

561-8284753	$2205	$1119	$6155	$ 9479/4.3%

Comment 10
Comment 3

Borrower: [redacted]. A broker origination fee of $2205 (1%) is within FHA guideline. The interest rate the day of lock ranged from a low of 6.25 to a high of 7.125 for an FHA 30YrFixed Loan, this loan interest rate locked at 6.5 indicating that the discount fee of $1119 was used to buy down the interest rate. The GFE indicated the interest rate would be 7.25. The YSP for 6.5 was 2.75, A+ received a YSP of 2.75.

561-8282112	$1400	$1957	$3915	$ 7272/3.8%

Comment 11
Comment 3

Borrower: [redacted]. A broker origination fee of $1400 (<1%) is within FHA guideline. The interest rate the day of lock ranged from a low of 6.375 to a high of 7.25 for an FHA 30YrFixed Loan, this loan interest rate locked at 6.5 indicating that the discount fee of $1957 was used to buy down the interest rate. The YSP for 6.5 was 2.25, A+ received a YSP of only 2.02 indicating that the borrower did benefit in a reduced YSP to A+.

561-8315965	$3152	$1090	$7599	$11841/3.8%

Comment 12
Comment 3

Borrower: [redacted]. A broker origination fee of $3152 (<1%) is within FHA guideline. The interest rate the day of lock ranged from a low of 5.625 to a high of 6.625 for an FHA 30YrFixed Loan, this loan interest rate locked at 6.625. The YSP for 6.5 was 2.875, A+ received a YSP of only 2.41 indicating that the borrower did benefit in a reduced YSP to A+.

561-8161367	$1497	$6691	$ 7442/3.7%	1

Comment 13

Borrower: [redacted]. LENDER NETBANK. NO INTEREST SHEET. A loan lock form signed by the borrowers in the file shows that a 6% rate would require a .75% discount point or $1497. The GFE stated a YSP of 3.354% or $6761.

561-8252480	$1900	$2520	$2170	$ 495	$ 7085/3.7%

Comment 14
Comment 3

Borrower: [redacted]. LENDER: AMERICAN BROKERS CONDUIT. NO INTEREST SHEET. A broker origination fee of $1900 (<1%) is within FHA guideline. A loan lock form signed by the borrowers in the file shows that a 6.75% rate would require a 1% discount point or $1825 for a loan

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amount of $182500. (LOAN AMOUNT AT CLOSING WAS $192850. A broker administrative fee of $2520 (1.3%). The YSP of $2170 was 1.125%. A broker processing fee of $495 was also charged.

Comment 15
Comment 3

561-8315516	$1405	$1112	$2317	$ 4755/3.4%	2

Borrower: [redacted]. LENDER: WEBSTER BANK. NO INTEREST SHEET. A broker origination fee of $1405 (1%) is within FHA guideline. A loan lock form signed by the borrowers in the file shows that a 6.25% rate would require $1112 for a loan amount of $140500. The YSP of $2317 was 1.649%.

Comment 16
Comment 3

561-8304752	$1045	$1090	$ 795	$ 2930/2.8%

Borrower: [redacted]. LENDER: EAGLE HOME MORTGAGE. NO INTEREST SHEET. A broker origination fee of $1045 (1%) is within FHA guideline. NO LOCK FORM FOUND IN FILE. Original GFE shows 6.75 interest rate; later GFE shows 6.5 interest rate so $1090 could have been used to buy down interest rate. The YSP of $795 was .75%.

Comment 17
Comment 3

561-8225722	$1662	$ 831	$2531	$ 4535/2.7%	3

Borrower: [redacted]. A broker origination fee of $1662 (1%) is within FHA guideline. The interest rate the day of lock ranged from a low of 5.75 to a high of 6.625 for an FHA 30YrFixed Loan, this loan interest rate locked at 6.25 indicating that the discount fee of $831 was used to buy down the interest rate. NO LOCK FORM OR BROKER FORM IN FILE TO SHOW BUYDOWN OR YSP. The YSP for 6.5 was 1.75, A+ received a YSP of $2531or 1.52% indicating that the borrower did benefit in a reduced YSP to A+.

Comment 18
Comment 3

561-8298555	$1040	$1110	$3431	$ 5581/2.7%

Borrower: [redacted]. A broker origination fee of $1040 (.5%) is within FHA guideline. The interest rate the day of lock ranged from a low of 6.25 to a high of 7.125 for an FHA 30YrFixed Loan, this loan interest rate locked at 6.375 indicating that the discount fee of $1110 was used to buy down the interest rate. The YSP for 6.375 was 1.625, A+ received a YSP of $3431 or 1.625%.

Comment 19
Comment 3

561-8270990	$3508	$1780	$4005	$ 9293/2.6%

Borrower: [redacted] A broker origination fee of $3508 (1%) is within FHA guideline. The interest rate the day of lock ranged from a low of 6.5 to a high of 7.375 for an FHA 30YrFixed Loan, this loan interest rate locked at 6.75 indicating that the discount fee of $1780 was used to buy down the interest rate. (The Rate Lock Form in the file shows $1780.06 discount for 6.75%). The YSP for 6.75 was 1.00, A+ received a YSP of $3984 per net broker form or 1.13%.

Comment 20
Comment 3

561-8295825	$1095	$ 483	$1588	$ 3166/2.5%

Borrower: [redacted] The interest rate the day of lock ranged from a low of 6.375 to a high of 7.25 for an FHA 30YrFixed Loan, this loan interest rate locked at 6.25 indicating that the discount fee of $1095 was used to buy down the interest rate. The YSP for 6.25 was not published, A+ received a YSP of $483 equating to .5%. A broker fee of $1588 or 1.25% was also charged.

Comment 21
Comment 3

561-8270484	$2174	$1090	$1379	$ 4643/2.1%

Borrower: [redacted] A broker origination fee of $2174 (1%) is within FHA guideline. The interest rate the day of lock ranged from a low of 6.5 to a high of 7.375 for an FHA 30YrFixed Loan, this loan interest rate locked at 6.875 indicating that the discount fee of $1090 was used to buy down the

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interest rate. The YSP for 6.875 was 1.125, A+ received a YSP of $1379 equating to .6345% indicating that the borrower did benefit in a reduced YSP to A+.

562-2043697	$1016	$1095	$1016	$ 3127/1.6%

Comment 22
Comment 3

Borrower: [redacted] A broker origination fee of $1016 (.5%) is within FHA guideline. The interest rate the day of lock ranged from a low of 6.25 to a high of 7.125 for an FHA 30YrFixed Loan, this loan interest rate locked at 6.25 indicating that the discount fee of $1095 was used to buy down the interest rate. The YSP for 6.25 was 1.0, A+ received a YSP of $1016 equating to .5% indicating that the borrower did benefit in a reduced YSP to A+.

Violation #2: A+ Allowed Independent Contractors and Unapproved Branches to Originate Insured Loans

Comment 23
Comment 24

Item #1: Loan Officers Must Be Employees of the Lender
Mortgagee Letter 2006-30 requiring all employees' compensation be reported on Form W-2 became law on March 1, 2007.

Comment 23

Item #2: A+ Loan Officers Were Independent Contractors
Mortgagee Letter 2006-30 requiring all employees' compensation be reported on Form W-2 became law on March 1, 2007.

Comment 24

Item #3: A+ Loan Officers Also Worked for or Owned Other Mortgage Firms
A+ did not allow Independent Contractors to originate loans. Many of the originators also created LLC's for themselves to take advantage of the expenses they incurred. However, a review of the Washington State Licensee databank revealed that the originators were only working for A+. Agreements stating the originator would only represent A+ while originating home loans are attached. In addition prior to mid 2007 there was no way to verify other employment may exist with other lenders. Now there is a state licensing database which can be checked for dual employment with another broker. Copies are attached of existing licensees in this report, still employed with A+.

Comment 24

FHA Loan Number 561-8301920
Borrower: [redacted]. L/O [redacted]. Loan closed. 12/1/2006. The Washington State Licensee databank shows no Company Name or Trade Name associated with Vinner S. Brooks. Vinner Brooks signed Loan Originator Agreement dated 09/19/05 with A+ Mortgage. Mortgagee Letter 2006-30 requiring all employees' compensation be reported on Form W-2 became law on March 1, 2007.

Comment 24

FHA Loan Numbers 561-8315516 and 562-2043697
Borrowers: [redacted] and [redacted] respectively. L/O for [redacted] L/O for [redacted]. The Washington State Licensee databank shows A + Mortgage Inc. the Company Name associated with [redacted]. [redacted] signed Loan Originator Agreement dated 06/07/05

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with A+ Mortgage. Mortgagee Letter 2006-30 requiring all employees' compensation be reported on Form W-2 became law on March 1, 2007.

Comment 24

FHA Loan Numbers 561-8270404, 561-8270990, and 561-8304752
Borrowers: [redacted], [redacted], and [redacted] respectively. L/O [redacted]. The Washington State Licensee databank shows A + Mortgage Inc. the Company Name and [redacted] as the Trade Name. [redacted] signed Loan Originator Agreement dated 03/15/06 with A+ Mortgage. Address reasonableness for someone to have a consulting company that does not conflict with mortgage company. Mortgagee Letter 2006-30 requiring all employees' compensation be reported on Form W-2 became law on March 1, 2007.

Comment 25

Item #4: Borrowers Were Not Always Aware That A+ Was the Originating Lender
The GFE's as well as the 1003s indicated that A+ was the originating lender. In addition, A+ was accommodating the borrower's by conducting a face-to-face meeting since they were unable or unwilling to come to the A+ branch.

Sincerely,

Greg Nick
President
A+ Mortgage, Inc.

OIG Evaluation of Auditee Comments

Comment 1 HUD does not require lenders to disclose the exact yield spread premium until the final HUD-1 is issued. It does require the lender to disclose estimates of costs, including the yield spread premium to the borrowers within three days of the receipt of the loan application. A Plus received yield spread premiums from its sponsor lender for all 28 of the loans reviewed. The sponsor lender was the same for 23 of the 28 loans reviewed and A Plus was receiving daily rate sheets from this sponsor lender. Thus A Plus had sufficient information on hand to calculate a reasonable estimate of the yield spread premium to disclose to the borrowers as soon as the loan application was received.

Comment 2 We did not report that the loan origination fee was excessive. We added this fee to other fees (including the yield spread premium) collected by A Plus for originating the loan, and showed the total as a percentage of the loan amount. Fees paid to A Plus by the borrower totaled $3,978 ($935 loan origination fee plus the $3,043 loan discount fee that was not passed through to the sponsor lender and did not generate a commensurate benefit for the borrower), and represent 2.13 percent of the loan amount (net of the mortgage insurance premium). Regulations at 24 CFR 203.27(a)(i) limit mortgagees to collecting from borrowers one percent of the original principal amount, excluding the mortgage insurance premium, for originating a loan.

Comment 3 According to records obtained from A Plus Mortgage, the discount fee charged to the borrowers was not used to buy down the interest rate on the loan. A Plus obtained the interest rate on the loan without having to pay the sponsor lender a discount, and the borrower did not receive an interest reduction or other commensurate benefit from the discount fee paid. The mortgage interest rate was high enough to generate a yield spread premium paid to A Plus at the loan closing. As noted in Finding 1, upon loan closing, A Plus received the loan origination fee, loan discount, other fees and the yield spread premium from the escrow settlement service in the form of a check. Upon receipt of this check A Plus' bookkeeper split the total amount of these funds between itself and the independent contractor or unapproved branch that brokered the loan through A Plus.

Comment 4 During the audit, A Plus was unable to explain what the $3,545 fee was for. Upon receiving its response to the draft audit report, we asked A Plus for a copy of the invoice to confirm that the fee was for the installation of the tie down system. A Plus did not provide the invoice as requested.

Comment 5 We did not report that the loan origination fee was excessive. We added this fee to other fees (including the yield spread premium) collected by A Plus for originating the loan, and showed the total as a percentage of the loan amount. Fees paid to A Plus by the borrower totaled $3,926 ($1,457 loan origination fee plus the $2,469 loan discount fee that was not passed through to the sponsor lender and did not generate a commensurate benefit for the borrower), and represent 2.70 percent of the loan amount (net of the mortgage insurance premium). Regulations at 24 CFR 203.27(a)(i) limit mortgagees to collecting from borrowers one percent of the original principal amount of the mortgage, excluding the mortgage insurance premium, for originating a loan.

Comment 6 We did not report that the loan origination fee was excessive. We added this fee to other fees (including the yield spread premium) collected by A Plus for originating the loan, and showed the total as a percentage of the loan amount. Fees paid to A Plus by the borrower totaled $3,590 ($1,230 loan origination fee plus the $2,360 loan discount fee that was not passed through to the sponsor lender and did not generate a commensurate benefit for the borrower), and represent 2.92 percent of the loan amount (net of the mortgage insurance premium). Regulations at 24 CFR 203.27(a)(i) limit mortgagees to collecting from borrowers one percent of the original principal amount of the mortgage, excluding the mortgage insurance premium, for originating a loan.

Comment 7 We did not report that the loan origination fee was excessive. We added this fee to other fees (including the yield spread premium) collected by A Plus for originating the loan, and showed the total as a percentage of the loan amount. Fees paid to A Plus by the borrower totaled $4,068 ($1,995 loan origination fee plus the $2,073 loan discount fee that was not passed through to the sponsor lender and did not generate a commensurate benefit for the borrower), and represent 1.99 percent of the loan amount (net of the mortgage insurance premium). Regulations at 24 CFR 203.27(a)(i) limit mortgagees to collecting from borrowers one percent of the original principal amount of the mortgage, excluding the mortgage insurance premium, for originating a loan.

Comment 8 We did not report that the loan origination fee was excessive. We added this fee to other fees (including the yield spread premium) collected by A Plus for originating the loan, and showed the total as a percentage of the loan amount. Fees paid to A Plus by the borrower totaled $3,604 ($1,530 loan origination fee plus the $2,074 loan discount fee that was not passed through to the sponsor lender and did not generate a commensurate benefit for the borrower), and represent 2.35 percent of the loan amount (net of the mortgage insurance premium). Regulations at 24 CFR 203.27(a)(i) limit mortgagees to collecting from borrowers one percent of the original principal amount of the mortgage, excluding the mortgage insurance premium, for originating a loan.

Comment 9 We did not report that the loan origination fee was excessive. We added this fee to other fees (including the yield spread premium) collected by A Plus for originating the loan, and showed the total as a percentage of the loan amount. Fees paid to A Plus by the borrower totaled $3,730 ($1,665 loan origination fee plus the $2,065 loan discount fee that was not passed through to the sponsor lender and did not generate a commensurate benefit for the borrower), and represent 2.24 percent of the loan amount (net of the mortgage insurance premium). Regulations at 24 CFR 203.27(a)(i) limit mortgagees to collecting from borrowers one percent of the original principal amount of the mortgage, excluding the mortgage insurance premium, for originating a loan.

Comment 10 We did not report that the loan origination fee was excessive. We added this fee to other fees (including the yield spread premium) collected by A Plus for originating the loan, and showed the total as a percentage of the loan amount. Fees paid to A Plus by the borrower totaled $3,324 ($2,205 loan origination fee plus the $1,119 loan discount fee that was not passed through to the sponsor lender and did not generate a commensurate benefit for the borrower), and represent 1.51 percent of the loan amount (net of the mortgage insurance premium). Regulations at 24 CFR 203.27(a)(i) limit mortgagees to collecting from borrowers one percent of the original principal amount of the mortgage, excluding the mortgage insurance premium, for originating a loan.

Comment 11 We did not report that the loan origination fee was excessive. We added this fee to other fees (including the yield spread premium) collected by A Plus for originating the loan, and showed the total as a percentage of the loan amount. Fees paid to A Plus by the borrower totaled $3,357 ($1,400 loan origination fee plus the $1,957 loan discount fee that was not passed through to the sponsor lender and did not generate a commensurate benefit for the borrower), and represent 1.74 percent of the loan amount (net of the mortgage insurance premium). Regulations at 24 CFR 203.27(a)(i) limit mortgagees to collecting from borrowers one percent of the original principal amount of the mortgage, excluding the mortgage insurance premium, for originating a loan.

Comment 12 We did not report that the loan origination fee was excessive. We added this fee to other fees (including the yield spread premium) collected by A Plus for originating the loan, and showed the total as a percentage of the loan amount. Fees paid to A Plus by the borrower totaled $4,242 ($3,152 loan origination fee plus the $1,090 loan discount fee that was not passed through to the sponsor lender and did not generate a commensurate benefit for the borrower), and represent 1.35 percent of the loan amount (net of the mortgage insurance premium). Regulations at 24 CFR 203.27(a)(i) limit mortgagees to collecting from borrowers one percent of the original principal amount of the mortgage, excluding the mortgage insurance premium, for originating a loan.

Comment 13 According to records obtained from A Plus Mortgage, the entire discount fee charged to the borrowers was not used to buy down the interest rate on the loan or provide a commensurate benefit for the borrower. As noted in the table in Finding 1 of this report showing loans with both loan discount fees and yield spread premiums, A Plus collected a loan discount fee of $1,497 from the borrower, but the borrower only received $746 of credits from A Plus. Upon loan closing, A Plus received the loan origination fee, loan discount, other fees and the yield spread premium (less the $746 of credits to the borrower) from the escrow settlement service in the form of a check. Upon receipt of this check A Plus' bookkeeper split the total amount of these funds between itself and the independent contractor or unapproved branch that brokered the loan through A Plus.

Comment 14 We did not report that the loan origination fee was excessive. We added this fee to other fees (including the yield spread premium) collected by A Plus for originating the loan, and showed the total as a percentage of the loan amount. Fees paid to A Plus by the borrower totaled $4,915 ($1,900 loan origination fee plus the $495 broker processing fee plus the $2,520 loan discount fee that was not passed through to the sponsor lender and did not generate a commensurate benefit for the borrower), and represent 2.56 percent of the loan amount (net of the mortgage insurance premium). Regulations at 24 CFR 203.27(a)(i) limit mortgagees to collecting from borrowers one percent of the original principal amount of the mortgage, excluding the mortgage insurance premium, for originating a loan.

Comment 15 We did not report that the loan origination fee was excessive. We added this fee to other fees (including the yield spread premium) collected by A Plus for originating the loan, and showed the total as a percentage of the loan amount. Fees paid to A Plus by the borrower totaled $2,517 ($1,405 loan origination fee plus the $1,112 loan discount fee that was not passed through to the sponsor lender and did not generate a commensurate benefit for the borrower less a $79 credit to the borrower), and represent 1.73 percent of the loan amount (net of the mortgage insurance premium). Regulations at 24 CFR 203.27(a)(i) limit mortgagees to collecting from borrowers one percent of the original principal amount of the mortgage, excluding the mortgage insurance premium, for originating a loan.

Comment 16 We did not report that the loan origination fee was excessive. We added this fee to other fees (including the yield spread premium) collected by A Plus for originating the loan, and showed the total as a percentage of the loan amount. Fees paid to A Plus by the borrower totaled $2,135 ($1,045 loan origination fee plus the $1,090 loan discount fee that was not passed through to the sponsor lender and did not generate a commensurate benefit for the borrower), and represent 2.04 percent of the loan amount (net of the mortgage insurance premium). Regulations at 24 CFR 203.27(a)(i) limit mortgagees to collecting from borrowers one percent of the original principal amount of the mortgage, excluding the mortgage insurance premium, for originating a loan.

Comment 17 We did not report that the loan origination fee was excessive. We added this fee to other fees (including the yield spread premium) collected by A Plus for originating the loan, and showed the total as a percentage of the loan amount. Fees paid to A Plus by the borrower totaled $2,004 ($1,662 loan origination fee plus the $831 loan discount fee that was not passed through to the sponsor lender and did not generate a commensurate benefit for the borrower less a $489 credit to the borrower), and represent 1.2 percent of the loan amount (net of the mortgage insurance premium). Regulations at 24 CFR 203.27(a)(i) limit mortgagees to collecting from borrowers one percent of the original principal amount of the mortgage, excluding the mortgage insurance premium, for originating a loan.

Comment 18 We did not report that the loan origination fee was excessive. We added this fee to other fees (including the yield spread premium) collected by A Plus for originating the loan, and showed the total as a percentage of the loan amount. Fees paid to A Plus by the borrower totaled $2150 ($1,040 loan origination fee plus the $1,110 loan discount fee that was not passed through to the sponsor lender and did not generate a commensurate benefit for the borrower), and represent 1.03 percent of the loan amount (net of the mortgage insurance premium.

Comment 19 We did not report that the loan origination fee was excessive. We added this fee to other fees (including the yield spread premium) collected by A Plus for originating the loan, and showed the total as a percentage of the loan amount. Fees paid to A Plus by the borrower totaled $5,288 ($3,508 loan origination fee plus the $1,780 loan discount fee that was not passed through to the sponsor lender and did not generate a commensurate benefit for the borrower), and represent 1.51 percent of the loan amount (net of the mortgage insurance premium). Regulations at 24 CFR 203.27(a)(i) limit mortgagees to collecting from borrowers one percent of the original principal amount of the mortgage, excluding the mortgage insurance premium, for originating a loan.

Comment 20 Fees paid to A Plus by the borrower totaled $2,683 ($1,588 broker fee plus the $1,095 loan discount fee that was not passed through to the sponsor lender and did not generate a commensurate benefit for the borrower), and represent 2.11 percent of the loan amount (net of the mortgage insurance premium). Regulations at 24 CFR 203.27(a)(i) limit mortgagees to collecting from borrowers one percent of the original principal amount of the mortgage, excluding the mortgage insurance premium, for originating a loan.

Comment 21 We did not report that the loan origination fee was excessive. We added this fee to other fees (including the yield spread premium) collected by A Plus for originating the loan, and showed the total as a percentage of the loan amount. Fees paid to A Plus by the borrower totaled $3,264 ($2,174 loan origination fee plus the $1,090 loan discount fee that was not passed through to the sponsor lender and did not generate a commensurate benefit for the borrower), and represent 1.5 percent of the loan amount (net of the mortgage insurance premium). Regulations at 24 CFR 203.27(a)(i) limit mortgagees to collecting from borrowers one percent of the original principal amount of the mortgage, excluding the mortgage insurance premium, for originating a loan.

Comment 22 We did not report that the loan origination fee was excessive. We added this fee to other fees (including the yield spread premium) collected by A Plus for originating the loan, and showed the total as a percentage of the loan amount.

Fees paid to A Plus by the borrower totaled $2,111 ($1,016 loan origination fee plus the $1,095 loan discount fee that was not passed through to the sponsor lender and did not generate a commensurate benefit for the borrower), and represent 1.05 percent of the loan amount (net of the mortgage insurance premium.

Comment 23 HUD required the issuance of W-2 forms with the August 14, 2006 issuance of Handbook 4060.1 REV-2. Mortgagee Letter 2006-30 states that HUD would not begin monitoring the W-2 requirement until March 1, 2007. We removed the reference to this requirement in the report since most of the loans reviewed were originated before the W-2 requirement or during the transition period for implementation of this requirement. Nonetheless, from the issuance of HUD Mortgagee Letter 94-39 on August 9, 1994, through the current requirements of HUD Handbook 4060.1, REV-2, HUD has required that loan officers originating FHA-insured mortgages be employees of the approved lender as well as under the lender's exclusive control and supervision.

Comment 24 As noted in the report, for all 28 loans all of the loan officers signed agreements with A Plus state that the loan officers were not employees of A Plus, but were independent contractors. Also as noted in the report, the loan files contained indications that the loan officers also represented other lenders, consultants, or real estate firms. A Plus gave us no indication that it followed up with the loan officers when these indications were present in the loan documentation.

Comment 25 As noted in Finding 2, borrowers told us that they did not realize that they were obtaining a loan from A Plus Mortgage since the loans applications were conducted at locations that were not A Plus Mortgage offices and the applications were taken by persons working for other firms.

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Appendix C

SCHEDULE OF EXCESS AND UNEARNED FEES

FHA case no.	Loan discount fee	Yield spread premium	Additional broker fee	Totals	Notes
561-8275604	$3,043	$3,084	$3,545	$9,672	
562-2046136	$2,469	$3,513		$5,982	
561-8278635	$2,360	$2,497		$4,857	
561-8292126	$2,073	$5,960		$8,033	
562-2049727	$2,074	$3,882		$5,956	
561-8308646	$2,065	$4,014		$6,079	
561-8284753	$1,119	$6,155		$7,274	
561-8282112	$1,957	$3,915		$5,872	
561-8315965	$1,090	$7,599		$8,689	
561-8161367	$1,497	$6,691		$8,188	1
561-8252480	$2,520	$2,170	$ 495	$5,185	
561-8315516	$1,112	$2,317		$3,429	2
561-8304752	$1,090	$ 795		$1,885	
561-8225722	$ 831	$2,531		$3,362	3
561-8298555	$1,110	$3,431		$4,541	
561-8270990	$1,780	$4,005		$5,785	
561-8295825	$1,095	$ 483	$1,588	$3,166	
561-8270484	$1,090	$1,379		$2,469	
562-2043697	$1,095	$1,016		$2,111	
561-8301920	Seller Paid	$5,136		$5,136	
561-8208362	$ -0-	$5,228		$5,228	4
561-8241617	$ -0-	$5,052		$5,052	
561-8286659	Seller Paid	$3,756		$3,756	
561-8279845	$ -0-	$8,112	$1,120	$9,232	
561-8323302	Seller Paid	$3,471		$3,471	
561-8252258	$ -0-	$5,583	$1,090	$6,673	
561-8303133	Seller Paid	$9,463	Seller Paid	$9,463	
561-8287082	$ -0-	$2,069	$ 495	$2,564	
Totals	**$31,470**	**$113,307**	**$8,333**	**$153,110**	

Notes
1 $746 of the fees and other costs shown were applied to borrower costs at closing.
2 $79 of the fees and other costs shown were applied to borrower costs at closing.
3 $489 of the fees and other costs shown were applied to borrower costs at closing.
4 $1,839 of the yield spread premium was applied to borrower costs at closing.

Appendix D

SCHEDULE OF LOAN ORIGINATION FEES

FHA case no.	Loan origination fee
561-8275604	$ 935
561-8278635	$1,230
561-8292126	$1,995
562-2046136	$1,457
562-2049727	$1,530
561-8308646	$1,665
561-8284753	$2,205
561-8282112	$1,400
561-8315965	$3,152
561-8161367	$ -0-
561-8252480	$1,900
561-8252258	$ -0-
561-8315516	$1,405
561-8304752	$1,045
561-8279845	$ -0-
561-8303133	Seller paid
561-8301920	Seller paid
561-8225722	$1,662
561-8298555	$1,040
561-8270990	$3,507
561-8286659	Seller paid
561-8295825	$ -0-
561-8208362	$ -0-
561-8241617	Seller paid
561-8270484	$2,174
561-8287082	$2,718
562-2043697	$1,016
561-8323302	$ -0-
Total	**$32,036**

Appendix E

LOANS WITH INDICATIONS OF DUAL EMPLOYMENT OF A PLUS LOAN OFFICERS AND SUPERVISORS

FHA case no.	A Plus job title	Dual employment details
561-8304752 561-8270990 561-8284753 561-8270484	Loan officer and supervisor	Representing and doing business as a consulting and management firm. Supervisor also had second company (along with spouse) - T.A. Paige, Inc., in A Plus information.
561-8315516 561-8278635 562-2043697	Loan officer and supervisor	Supervisor was owner of his own mortgage company, evident in A Plus file and in the e-mail address for “branch” contact where loan officer works.
562-2049727 562-2046136	Supervisor	Owner of a company in the mortgage finance industry.
561-8308646	Loan officer and supervisor	Did not interview borrowers in A Plus office and closed loan in supervisor’s home.
561-8301920	Loan officer	Loan officer with another non-approved lender per information in A Plus loan file and Internet site.
561-8275604	Loan officer and supervisor	Loan officer/supervisor (same person) had her business card in the A Plus loan file from another non-approved lender.
561-8295825	Loan officer and supervisor	Loan officer/supervisor (same person) worked for another non-approved lender, which is in A Plus “branch” information.
561-8225722	Loan officer	Loan officer registered in Washington State with another non-approved lender, which was on borrower’s credit report in A Plus loan file.
561-8303133	Loan officer and supervisor	Loan officer/supervisor (same person) did not work with the borrowers per our interview. Realtor did the bulk of processing on this loan.