Deloitte & Touche Agrees to Pay $149.5 Million to Settle Claims Arising From Its Audits of Failed Mortgage Lender Taylor, Bean & Whitaker

The Justice Department announced today that Deloitte & Touche LLP has agreed to pay the United States $149.5 million to resolve potential False Claims Act liability arising from Deloitte’s role as the independent outside auditor of Taylor, Bean & Whitaker Mortgage Corp. (TBW), a failed originator of mortgage loans insured by the Federal Housing Administration (FHA) in the Department of Housing and Urban Development (HUD).

“With taxpayer dollars at stake, auditors must take their obligations seriously when auditing companies that participate in government programs,” said Acting Assistant Attorney General Chad A. Readler for the Justice Department’s Civil Division. “When auditors fail to exercise their professional judgment, and make false statements that allow bad actors to remain in government programs and submit false claims to the government, there will be consequences.”

Under HUD’s Direct Endorsement Lender program, TBW was authorized to originate and underwrite mortgage loans insured by the FHA. When a borrower defaults on an FHA-insured loan underwritten and endorsed by a Direct Endorsement Lender such as TBW, the holder of the loan can submit a claim to the United States to recoup losses resulting from the default. To maintain its status as a Direct Endorsement Lender, a lender is required to submit to HUD annual audit reports on its financial statements and related reports on its internal controls and its compliance with certain HUD requirements.

Deloitte served as TBW’s independent outside auditor, and issued audit reports for TBW’s fiscal years 2002 through 2008. The United States alleged that during that time period TBW had been engaged in a long-running fraudulent scheme involving, among other things, the purported sale of fictitious or double-pledged mortgage loans, and as a result, TBW’s financial statements failed to reflect its severe financial distress. The United States alleged that Deloitte’s audits knowingly deviated from applicable auditing standards and therefore failed to detect TBW’s fraudulent conduct and materially false and misleading financial statements. The United States alleged that Deloitte’s audit failures extended to the specific financial arrangements through which TBW carried out its fraudulent conduct. By failing to detect TBW’s misconduct, Deloitte’s audit reports allegedly enabled TBW to continue originating FHA-insured mortgage loans until TBW collapsed and declared bankruptcy in 2009.

A number of TBW officials were criminally convicted in connection with the conduct at issue.
“HUD relies on auditors to ensure the soundness of participants in HUD programs. When CPA firms and auditors fail to detect fraud, waste or abuse the consequences are significant to federal programs, and, ultimately, to the American taxpayer and must be addressed,” said Helen M. Albert, Acting HUD Inspector General.

The claims settled by this agreement are allegations only, and there has been no determination of liability.

The settlement was the result of a coordinated effort between the Civil Division’s Commercial Litigation Branch, HUD and HUD’s Office of Inspector General.

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