

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

GLOBAL DIRECT SALES, LLC, PENOBSCOT)
INDIAN NATION, CHRISTOPHER RUSSELL,)
and RYAN HILL,) Case No.: 8:08-cv-02468

Plaintiffs,

-v-

AARON KROWNE, individually, and d/b/a THE)
MORTGAGE LENDER IMplode-O-METER)
and ML-IMplode.COM, KROWNE)
CONCEPTS, INC., IMplode-EXPLODE) Assigned:
HEAVY INDUSTRIES, INC. JUSTIN) Hon. Deborah K. Chasanow
OWINGS, KRISTA RAILEY, STREAMLINE)
MARKETING, INC. and LORENA LEGGETT,)

Defendants.

**DECLARATION OF AARON KROWNE. IN SUPPORT OF
DEFENDANTS' SPECIAL MOTION TO DISMISS PURSUANT TO
MARYLAND COURTS AND JUDICIAL PROCEEDINGS § 5-807**

I, Aaron Krowne, declare:

1. I am over 18 years of age and competent to testify in the matters below.
2. I make the following statements based on my personal knowledge. If called to testify under oath in a court of law as to the matters set out herein, I could and would do so truthfully.

3. I am the chief executive officer of Implode-Explode Heavy Industries, Inc. and Krowne Concepts, Inc., both defendants in the present action.

4. Krista Railey had a regular blog column on the Website, and she was generally entitled to post any of her articles concerning matters related to the mortgage and home finance industries.

5. IEHI did not solicit from or suggest any topic for the article to Krista Railey in response to any advertising discussions between our outside sales representative (Lorena Leggett) and any of the Plaintiffs. IEHI did not publish Ms. Railey's article in response to any advertising discussions. Rather, Ms. Railey decided the topic of her article, decided to write it and decided to place it on her blog page without substantive direction from IEHI.

6. Even before Ms. Railey published her article, IEHI's Mortgage Lender Implode website had taken a stance against the practices of seller-funded down payment assistance programs. By way of example, attached as Exhibits A and B to this declaration are true and correct copies of articles critical to such programs that were published on the IEHI website well before Ms. Railey's article was published.

7. Implode-Explode Heavy Industries, Inc. has incurred over \$70,000 in legal fees and costs in defending against this action, mostly to defend against Plaintiffs' unsuccessful preliminary injunction motion and to move the Court (successfully) to dismiss those defendants outside the Court's jurisdiction.

8. Plaintiffs' continued litigation of this SLAPP suit has severely damaged IEHI's financial stability and has threatened IEHI with bankruptcy. As a direct result of having to spend

money defending against Plaintiff's unmeritorious claims, IEHI has had to lay off employees and rely on *pro bono* legal assistance.

I declare under penalty of perjury under the laws of the State of Maryland and the United States that the foregoing is true and correct, and that this declaration was executed on November 10, 2009 in Atlanta, Georgia.

/s/ Aaron Krowne /s/
Aaron Krowne

Exhibit A

HUD Takes Second Stab at DPA's – Renewed Proposal Expected 2008-06-16

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HUD Takes Second Stab At DPA's - Renewed Proposal Expected 2008-06-16

2008-06-15 — *hud.gov*

In tomorrow's Federal Register, HUD will publish its renewed proposal to abolish seller-funded down payment assistance programs (SFDPA's), and offer a 60-day window for public response. A preview is available on their web site [here](#); the official Federal Register publication will be available [here](#) tomorrow, on 2008-06-16.

HUD's [press release](#) and the [Commissioner's Statements](#) on the issue provide more background.

"If, after reviewing the comments, HUD issues a final rule, it would be effective 180 days from the date of publication with regard to all insured mortgages involving properties for which contracts of sale are dated on or after the effective date."

This is the agency's second attempt in less than a year to eliminate what many industry professionals perceive to be a "wash" of prohibited gift funds through a third-party in exploitation of both IRS and FHA rules. HUD/FHA previously issued a final rule on 2007-10-01 entitled "Standards for Mortgagor's Investment in Mortgaged Property", but court challenges by Nehemiah Corporation of America and Ameridream, Inc. resulted in the U.S. court's enjoining (suspending) HUD's rule, and ultimately vacating it on 2008-03-05.

"The court found, among other things, that HUD violated the Administrative Procedure Act by failing to allow comment on critical factual material and by failing to offer a rational explanation for the final rule."

A few months later, HUD is back with the facts and rationale...

From the proposal, as posted on HUD's web site, we glean that for 2007 "more than 35 percent of all home purchase loans insured by FHA" had these particular type of DPA's. It goes on to cite some truly disturbing

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facts about FHA's portfolio:

"The early default rate of loans with nonprofit downpayment assistance has consistently been more than twice the rate found on loans with borrower-funded downpayments"

"The [ever-defaulted rate] shows that, for loans endorsed from 2000 to 2005, between approximately 24 and 29 percent of loans with seller-funded assistance had experienced a 90-day delinquency, compared to approximately 11 to 16 percent of loans without downpayment assistance."

"The [current] default rate for loans with nonprofit downpayment assistance... was 11.19 percent and that for borrower-funded purchase loans was 6.22 percent."

This renewed proposal appears to have teeth. Third-party research and actuarial data missing from the vacated 2007 rule are covered in depth this time around. According to one such report cited in the proposal, "for loans with seller-funded down payment assistance, the appraised value and sales price were higher as compared with loans without such assistance." Looking at the numbers, this statement caught our attention:

"The expected lifetime claim rate on loans with nonprofit downpayment assistance in the FY 2005 insurance cohort is close to 17 percent, and for FY 2007 is above 28 percent."

Single-Family, 1-4 unit properties insured under the 203(b) program account for 90% of the MMIF, FHA's largest insurance fund. Excluded are "condominiums and section 203(k) purchase-and-rehabilitation loans, along with some minor targeted programs." Based on actuarial projections, it is proposed no increase in premiums could offset the required credit subsidy rate (CSR) for the portfolio:

"HUD is at the point where continuing to support loans with SFDPA will require budget appropriations for all of the FHA MMIF loans."

HUD is in trouble, and SFDPA's are either [part of] the problem, or the root, as HUD presents it. The proposal reads, "The FHA insurance fund is teetering on credit insolvency." We sum the remainder of the proposal as thus:

"If seller-funded DPA's aren't banned, FHA will have to ask for a budget appropriation of \$1.4 billion in 2009 - the first time in the agency's history since it was founded in 1934."

Please follow the links above to HUD's site and the Federal Register for the actual proposal and directions for public response.

There has been quite a bit of discussion on our Forums about FHA programs and issues. Visit the topic most relevant to this development [here](#). Your commentary is both welcome and encouraged.

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Exhibit B

Melville company offers controversial \$1,000-down mortgage

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Melville company offers controversial \$1,000-down mortgage

2008-01-19 — *newsday.com*

The easy numbers might sound like a return to the type of subprime financing that damaged the housing and Wall Street markets, but Continental is maximizing a controversial rule under the Federal Housing Administration -- a loophole that allows sellers to funnel down payments to FHA-qualified buyers through nonprofits, leading to FHA fears that these buyers wouldn't qualify otherwise.

This leaves us hopping mad. This is NOT what FHA was intended for. Companies like this one are just turning FHA into another subprime lender. Your tax dollars at work. The article has more on the fight over this loophole (which is just about as egregious as the one that lets you "rent" your credit score):

The FHA has for decades allowed nonprofits to give buyers down payment gifts, but didn't intend such agencies to be the conduits for sellers to help buyers get around the minimum down payment requirement. Many lenders avoided FHA loans because of all the paperwork, and it was only after the subprime problems that federally backed loans and programs became hugely popular again.

Last year, FHA tried to close the loophole on the circuitous seller help. Studies found inflated prices and other problems in "seller-funded" assistance. "Loans made to borrowers who rely on seller-funded gifts are almost 2 1/2 times more likely to fail than all other home purchase loans insured by FHA," said FHA spokesman Steven O'Halloran.

Three months ago, Nehemiah and other nonprofits sued the FHA over the issue. A federal judge ordered the FHA to allow seller-funded down payment assistance to continue until the case is settled, as early as next month.

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ATTENTION FHA FORECLOSED HOMEOWNERS!