

**WRITTEN STATEMENT OF
JOHN P. KENNEDY
U.S. DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT**



**BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITTEE ON OVERSIGHT AND
INVESTIGATIONS
MARCH 10, 2005**

WRITTEN STATEMENT OF
JOHN P. KENNEDY
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Chairwoman Kelly, Ranking Member Gutierrez, and Distinguished Members of the Committee, I am John P. Kennedy, Associate General Counsel for Finance and Regulatory Compliance at the Department of Housing and Urban Development and Senior Counsel for the Government National Mortgage Association (Ginnie Mae). On September 11, 2000, staff from my office accompanied a Ginnie Mae default team to Charlotte, NC to enforce Ginnie Mae's rights under its contractual agreement with First Beneficial Mortgage Corporation, a Ginnie Mae issuer.

My office had contacted the United States Attorney's office to let them know of the civil enforcement action and to request assistance from the U.S. Marshalls during the enforcement process. Shortly after arriving in Charlotte, HUD learned that 37 of 42 properties inspected as part of a Ginnie Mae compliance audit were vacant lots.

It became apparent to my office and the United States Attorney that this was a criminal case and not a routine contractual enforcement matter. My office then assisted in the preparation of an application for a search and seizure warrant for the First Beneficial business offices. Ginnie Mae delayed delivering the default letter to First Beneficial until the search and seizure warrant could be obtained.

On September 14, 2000, the search and seizure warrants were executed by the FBI and files and information were taken from the First Beneficial headquarters. Ginnie Mae delivered its letter extinguishing First Beneficial's right to participate in the Ginnie Mae program and seized all mortgage servicing files and data related to the mortgages backing the Ginnie Mae securities.

We also prepared documents to seize the assets of First Beneficial and its principals. The U.S. government ultimately seized over 100 parcels of property, 20 bank accounts, 7 vehicles, a boat, the personal residence of the owners and the corporate headquarters building.

The FBI and HUD's IG conducted an extensive investigation of the activities of First Beneficial and its principals and employees. In May 2002, the principals and five employees were indicted on various charges, including conspiracy, wire fraud, bank fraud, making false statements and entries and money laundering.

The defendants were tried and convicted in November 2002, and were sentenced in December 2003. The two principals were sentenced to 21 years in prison. Prison sentences for the employees ranged from 11 years to 18 months. All were ordered to pay restitution.

On August 26, 2003, the accountant who provided financial statements on First Beneficial, upon which Ginnie Mae relied, was indicted for making false statements to HUD. The accountant claimed to have been a CPA when his certification was suspended and allegedly did not perform certain tests and verifications as he represented. He was recently sentenced to one year in prison under a plea agreement.

After the convictions and sentencing, my office reviewed evidence developed during the investigation and testimony given during the trial. We determined Fannie Mae might be a party from which restitution would be appropriate.

The investigation of the First Beneficial criminal case provided information that First Beneficial sold fraudulent mortgages to Fannie Mae and that Fannie Mae demanded that First Beneficial repurchase the mortgages. Between December 18, 1998 and February 11, 1999, First Beneficial transferred \$6.5 million to a Fannie Mae account at BB&T, from which it was transferred to Fannie Mae's Federal Reserve account in New York. The evidence tended to show that Fannie Mae knew that First Beneficial would obtain the funds to repurchase the fraudulent mortgages by selling the fraudulent mortgages to another purchaser. The fraudulent mortgages were used to back Ginnie Mae guaranteed securities.

Fannie Mae recovered \$6.5 million from the proceeds of First Beneficial's issuance of Ginnie Mae guaranteed securities backed by the fraudulent mortgages. Because Ginnie Mae did not know of First Beneficial's fraudulent conduct, Ginnie Mae continued to guaranty fraudulent securities issued by First Beneficial until 2000 and ultimately suffered \$35 million in losses.

On January 16, 2004, my office met with the Department of Justice to discuss recovery of these funds from Fannie Mae. We discussed a number of remedies including forfeiture, both civil and criminal.

Through a cooperative effort by the Department of Justice and the United States Attorney's office, a case for criminal forfeiture was presented in Charlotte and the forfeiture was ordered. Fannie Mae agreed to forfeit the funds, with interest, the combination of which totaled \$7.5 million, to Ginnie Mae.

Ginnie Mae will also receive proceeds from the various properties seized in 2000. The properties have been valued at \$8 million. Approximately \$300,000 has also been paid from these funds to more than 200 individuals who were defrauded by First Beneficial, which failed to pay mortgage insurance, property taxes and other expenses. Thank you.