

SETTLEMENT AGREEMENT

This **SETTLEMENT AGREEMENT** is made and entered into by and among the **United States Department of Housing and Urban Development** (“HUD” or “Department”), and:

- a. Closings of Tulsa, L.L.C. (“COT”), an Oklahoma Limited Liability Company;
- b. Closing and Escrow Company of Tulsa, Inc. (“CECT”), an Oklahoma Corporation;
- c. McGraw Davisson Stewart, Inc. (“McGraw”), an Oklahoma Corporation;
- d. Residential Sales Associates, L.L.C. (“RSA”), an Oklahoma Limited Liability Company;
- e. Robert Dailey, individually, and on behalf of CECT and COT;
- f. Helen Elizabeth Dailey, individually, and on behalf of CECT and COT;
- g. John Woolman, individually, and on behalf of McGraw;
- h. Joseph McGraw, individually, and on behalf of McGraw;
- i. Peter McGraw, individually, and on behalf of RSA;
- j. Darrell Jenkins, individually, and on behalf of McGraw;

The persons, corporations, and limited liability companies, identified in a-j, above, shall be collectively referred to in this Settlement Agreement as the “Investigated Parties.”

RECITALS

WHEREAS, COT is a provider of title and settlement services involving federally related mortgage loans in Tulsa, Oklahoma; McGraw is a real estate brokerage that provides real estate settlement service involving federally related mortgage loans and also owns a 25% membership interest in COT; RSA owns a 20% membership interest in COT; and CECT owns a 55% membership interest in COT, and

WHEREAS, the Secretary of Housing and Urban Development is authorized to enforce the Real Estate Settlement Procedures Act of 1974 (“RESPA” or “the Act”), 12 U.S.C. § 2601 *et. seq.*, and its implementing regulations (“the regulations”), 24 C.F.R. § 3500 *et. seq.*, and

WHEREAS, the Secretary is authorized by Section 19 of RESPA to investigate any facts, conditions, practices, or matters deemed necessary to determine whether any person has violated or is about to violate any provision of the Act or any rule or regulation prescribed pursuant thereto, or to secure information to serve as a basis for recommending legislation concerning real estate settlement practices, and

WHEREAS, Section 8(a) of RESPA prohibits any person from giving or receiving any fee, kickback or thing of value pursuant to an agreement or understanding that business incident to or part of a real estate settlement service involving a federally related mortgage loan shall be referred to any person, and

WHEREAS, Section 8(b) 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, and

WHEREAS, the Department has conducted a formal federal investigation of the Investigated Parties concerning possible violations of Sections 8(a) and (b) of RESPA, for which the Investigated Parties have cooperated, and

WHEREAS, following this investigation, the Department asserts that the Investigated Parties engaged in a series of practices; specifically:

(A) In December 1999, CECT and McGraw formed COT. CECT contributed the assets of its ongoing title business and McGraw contributed capital to COT. McGraw and CECT agreed that McGraw would encourage its associates to refer consumers to COT.

(B) At least one McGraw office maintained a policy that all transactions would be closed by COT.

(C) McGraw received significant financial benefits arising from its associates referring business to COT.

(D) In December 2000, RSA was formed for the purpose of acquiring a 20% membership interest in COT, and distributing funds from COT to RSA's members. RSA's membership is comprised primarily of real estate agents that are associated with McGraw. McGraw actively encouraged its associates to become members of RSA, and refer business to COT.

(E) RSA acquired its membership interest in COT for less than fair market value. In exchange RSA's members referred settlement service business to COT.

(F) RSA received allocations and periodic distribution from COT equal to 20% of COT's net profits. Each period, RSA's members received an allocation and distribution from RSA based on the total sales prices of the real estate contracts that each member referred to COT. RSA's members received significant financial benefit from referring business COT.

(G) The Department maintains that in certain cases COT marked up charges to consumers for recording fees and abstract services provided by third party settlement services providers, or failed to provide consumers with accurate settlement statements (HUD-1s), and

WHEREAS based upon the results of its investigation, HUD asserts that the Investigated Parties violated RESPA and the regulations, and/or aided and abetted others in violation of the Act and regulations, with respect to practices described above, and

WHEREAS the Investigated Parties deny that they engaged in such conduct, and expressly deny they engaged in any wrongdoing in connection with the alleged practices, and deny that they violated RESPA or the regulations, and

WHEREAS RSA represents that it has discontinued its practice of allocating and distributing income, gain, loss, and deductions among its members in a manner that takes into consideration the business that RSA's member referred to COT, and

WHEREAS COT represents that it has discontinued its practice of facilitating RSA's allocations and distributions of income, gain, loss, and deductions among its members in a manner that takes into consideration the business that RSA's member referred to COT, and

WHEREAS COT represents that it is not marking up charges and has taken certain steps to ensure that consumers are provided with accurate settlement statements, and

WHEREAS the Department and the Investigated Parties agree that this Settlement Agreement constitutes the settlement of disputed claims between the parties, including claims under the Act and regulations, and

WHEREAS the Settlement Agreement shall not constitute an admission of wrongdoing, liability, or legal fault on the part of the Investigated Parties for any conduct underlying this Settlement Agreement, nor shall it be construed as an admission that any person or entity acted wrongfully.

WHEREAS the parties to this Settlement Agreement now desire to avoid any further expense and proceedings and to finally resolve this matter on the terms and conditions set forth below, and

WHEREAS the terms of this Settlement Agreement are an appropriate disposition of this matter and in the public interests.

AGREEMENTS

NOW, THEREFORE, in consideration of the mutually negotiated promises, covenants, and obligations in this Settlement Agreement, the Department and the Investigated Parties reach a final settlement as set forth below:

1. This Settlement Agreement is effective on the date of signature of the last signatory to the Settlement Agreement (hereinafter the "Effective Date").

2. Based on the Investigated Parties' compliance with this settlement agreement, the Department will terminate its investigation, and HUD agrees to take no further enforcement action under RESPA against the Investigated Parties, their shareholders, members, directors, officers, managers, real estate brokers or sales associates, employees, agents, representatives and attorneys with respect to the practices described herein, or for which the Department received information about during this investigation, unless such practices recur.

3. The Investigated Parties hereby waive, release, and remit any and all claims, directly or indirectly, against the Department, or any of its employees, agents, or representatives, with respect to any actions arising from HUD's investigation or this settlement.

4. The Investigated Parties agree to comply with the RESPA and its implementing regulations, and conduct their business in a manner consistent with the Department's RESPA policy statements.

5. Within thirty (30) business days of the Effective Date, the Investigated Parties shall collectively make a settlement payment totaling \$325,000, payable to the United States Treasury, and delivered to counsel for HUD. Each of the Investigated Parties shall be jointly and severally liable for the entire payment. RSA and/or its members shall pay a minimum of \$150,000, McGraw shall pay a minimum of \$75,000 and CECT shall pay a minimum of \$100,000. The other Investigated Parties shall not make any payments to RSA, directly or indirectly, to reimburse RSA for its payment. RSA and its members will not accept any reimbursement, directly or indirectly, for this payment.

6. RSA will amend its Operating Agreement to include a provision that provides that no member shall receive, directly or indirectly, any "thing of value," as defined in RESPA and the regulations, in exchange for the referral of business to COT, unless such conduct is in compliance with 12 U.S.C. § 2607(c)(4), and 24 C.F.R. § 3500.15.

7. RSA will not make allocations or distributions based on the member's relative: number of referrals, dollar volume of referrals, profits arising from referrals, sales price of referrals, volume of sales (regardless of whether the transactions were closed at COT), or any other formula that attempts to compensate individual members for referring business to COT.

8. COT will amend its Operating Agreement to include a provision that provides that no member shall pay, directly or indirectly, any "thing of value," as

defined in RESPA and the regulations to any person in exchange for the referral of business to COT, unless such conduct is in compliance with 12 U.S.C. § 2607(c)(4) and 24 C.F.R. § 3500.15. COT shall notify HUD if it has reason to believe that any of its members are engaged in this activity.

9. The Investigated Parties shall not pay or receive, directly or indirectly, any “thing of value,” as defined in RESPA and the regulations, to any person in exchange for the referral of business to any other person.

10. RSA will not admit any member for any amount less than the fair market value of the interest, as determined by a Certified Public Accountant.

11. COT will not admit any member or transfer any membership interest for any amount less than the fair market value of the interest, as determined by a Certified Public Accountant.

12. McGraw shall distribute a memorandum, in a form acceptable to HUD, to each real estate agent associated with McGraw, that:

- (a) describes this Settlement Agreement;
- (b) states that it is McGraw’s policy that all agents shall comply with the Act, regulations, and the Department’s RESPA policy statements;
- (c) states that it is McGraw’s policy that in all cases where the consumer may select a settlement service provider, that consumer shall be verbally instructed that they have a right to choose their settlement service provider.

- (d) states that it is McGraw's policy that its agents may not require any consumer to purchase settlement services from any settlement service provider that maintains an affiliated business arrangement with McGraw;
- (e) states that it is McGraw's policy that in all cases where the associate refers a consumer to a settlement service provider that maintains an affiliated business relationship with McGraw and/or the associate, the associate shall state verbally and in writing that McGraw and/or the associate maintains an affiliated business arrangement with that settlement service provider, that McGraw or the associate may receive a financial benefit if the consumer utilizes that settlement service provider, and that the consumer has a right to select a different settlement service provider, who may charge more or less.

13. McGraw will take all necessary and appropriate steps to ensure its employees and associates comply that the policies enumerated in lines d-g, above.

14. McGraw shall certify within 180 days of the Effective Date that every real estate agent associated with McGraw has attended at least three hours of training on the requirements of RESPA provided by a qualified individual, which shall include instruction on Section 8 of RESPA, the requirements for complying with the Affiliated Business Arrangement regulations, and HUD's RESPA policy statements. McGraw may select the trainer. HUD may, at its sole discretion, waive this training requirement for a specific agent at the request of McGraw.

15. This Settlement Agreement constitutes the complete agreement between the Parties as to the matters addressed herein. This Settlement Agreement may not be amended except by written consent of the Parties.

16. Each of the Parties to this Settlement Agreement shall bear its own attorney's fees and costs, including the preparation and performance of this Settlement Agreement.

17. The Parties represent that this Settlement Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever. No provision of this Settlement Agreement shall be construed against any party by reason of such party having drafted such provision of the Settlement Agreement.

18. By this Settlement Agreement the Parties do not waive, compromise, or release any claims or causes of action against any other person or entity not expressly released by this Settlement Agreement.

19. Failure by any Party to enforce any provision of this Settlement Agreement shall not be construed as a waiver by such Party of any provision, nor in any way affect the validity of this Settlement Agreement or any part thereof.

20. Should the Investigated Parties fail to comply with the terms set out above, or should any of the Investigated Parties' written or oral testimony prove to be false or incomplete in a material manner, HUD may take appropriate enforcement action.

21. If any provision of this Settlement Agreement is determined to be invalid or unenforceable for any reason, then such provision shall be treated as severed from the remainder of this Settlement Agreement and shall not affect the validity and enforceability of all the other provisions of this Settlement Agreement as long as such severance does not materially change the Department's and the Investigated Parties' rights and obligations.

22. This Settlement Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same agreement.

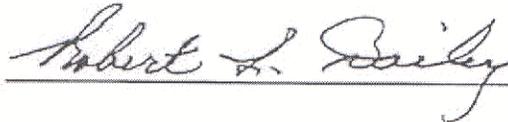
23. Each person who signs this Settlement Agreement in a representative capacity warrants that his or her execution of this Settlement Agreement is duly authorized, executed, and delivered by and for the entity for which he or she signs.

On Behalf of the U.S. Department of Housing & Urban Development:


John C. Weicher
Assistant Secretary for
Housing-Federal Housing Commissioner

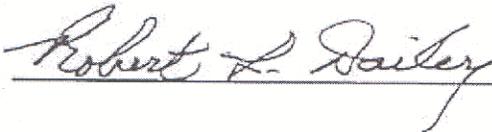
3/26/05
Date

On Behalf of Closings of Tulsa, L.L.C.:



3-18-05
Date

On Behalf of Closing and Escrow Company of Tulsa, Inc.:



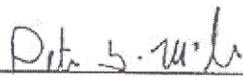
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On Behalf of McGraw Davisson Stewart, Inc.:



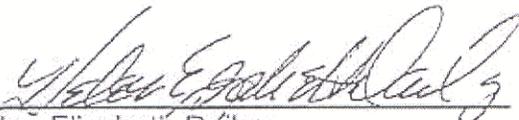
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On Behalf of Residential Sales Associates, L.L.C.



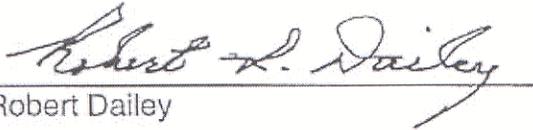
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Individually:



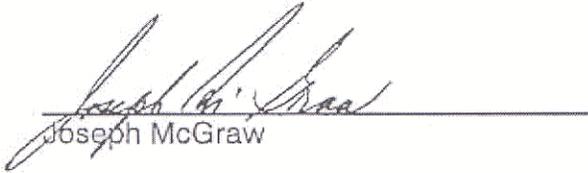
Helen Elizabeth Dailey

3-18-05
Date



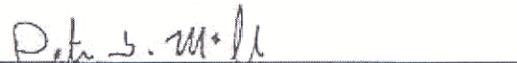
Robert Dailey

3-18-05
Date



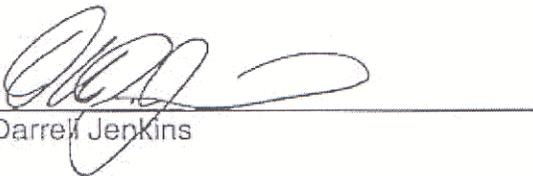
Joseph McGraw

3-18-05
Date



Peter McGraw

3/18/05
Date



Darrell Jenkins

3-18-05
Date



John Woolman

3-18-05
Date