

HUD Gives Up With Fitts

By Paul M. Rodriguez

Following an **Insight** story exposing a possible political vendetta, HUD dropped its five-year investigation of Hamilton Securities, finding no evidence of wrongdoing.

The Department of Housing and Urban Development (HUD) has closed with prejudice a nearly five-year investigation after finding no evidence of wrongdoing by Hamilton Securities Inc., a now-defunct government-mortgage portfolio seller owned by Catherine Austin Fitts. The decision of HUD's Office of the Inspector General (OIG) to close the case followed by weeks an investigative cover story by **Insight** that explored details of this affair many inside both HUD and the Justice Department regarded as a political vendetta against Fitts (see "Thankless Task," May 21).

The Fitts affair resulted when a streamlined mortgage-selling program she pioneered in 1995 and 1996 ended bloated contracts awarded for decades to firms that suddenly stood to lose millions. Fitts had found an efficient way for the government to unload hefty loan portfolios instead of managing them, and apparently some who had profited on the old deal set out to get her.

Insight discovered that despite the flamboyant allegations of wrongdoing levied against Fitts personally, and against Hamilton Securities, the Justice Department's Criminal, Civil and Antitrust divisions determined there was no evidence of wrongdoing. The FBI and the Securities and Exchange Commission came to the same conclusion, **Insight** learned. Only HUD's OIG, led by Inspector General Susan Gaffney, pursued Hamilton and Fitts in conjunction with its "bounty hunter," John Ervin, who heads Ervin & Associates, a firm that just happens to specialize in HUD mortgage-loan portfolio management.

Despite five years of digging and legal harassment that drove Fitts and her company to the wall, OIG kept the case open in hopes that the "stained blue dress" alleged metaphorically by Ervin would emerge. It never did. Once Gaffney quit in late spring after finding no wrongdoing, **Insight** has learned, the case quickly was closed with approval from the highest levels at HUD.

It began as a *qui tam* case filed by Ervin. He accused Hamilton Securities and Fitts of fraud and conspiracy associated with an alleged bid-rigging scheme in two multibillion-dollar mortgage-portfolio sales held by HUD. A preliminary finding by a HUD OIG audit team affirmed that the complicated sales program was a well-managed success that recovered upwards of 70 cents on the dollar. It saved taxpayers more than \$2 billion by unloading costly mortgage loans held by HUD and managed by private firms such as the one belonging to Ervin.

Despite the draft report, OIG continued its probe while Ervin pressed his case in addition to a separate Bivens action against HUD officials he accused of being involved in the alleged conspiracy. A *qui tam* is a secret filing in federal court by a private citizen on behalf of the United States that is supposed to be, in effect, a whistle-blower action aimed at proving allegations of wrongdoing by government contractors or officials. A Bivens action is a lawsuit filed against individual government officials on allegations of corruption.

Although HUD denied any wrongdoing in federal court, it settled its part of the Bivens case for an estimated \$2 million, based on alleged bias against



Vindicated: Catherine Austin Fitts' trials and tribulations nearly are over.

Ervin by HUD officials. According to HUD and lawyers for both Fitts and Ervin, this fueled the OIG's suspicion that former HUD secretary Andrew Cuomo either kept or hired crooked HUD officials to cover up the alleged conspiracy. That spurred Gaffney's office to pursue Hamilton Securities for suspected complicity to hide the truth. However, despite continued allegations of wrongdoing claimed by Ervin in secret *qui tam* filings, the combined investigators of the Justice Department, the FBI and HUD auditors could find no wrongdoing by Fitts personally or by Hamilton Securities.

Ervin and Fitts now are in federal mediation to resolve his continuing *qui tam* case, as amended at least two times, and her own counterclaims for millions of dollars in legal bills she has incurred to defend her company from allegations that have proved false. **Insight** sources say Fitts expects to file a civil lawsuit against HUD if it does not move quickly to compensate Hamilton Securities for the millions of dollars it lost from canceled contracts and spoiled business resulting from the "unwarranted" federal investigation.

HUD's OIG had no comment on its settlement of the Hamilton Securities/Fitts case and neither did Ervin or Fitts through their attorneys. However, an official at HUD says privately that the department and HUD Secretary Al Martinez are glad to be out of it. "Your article brought this to our attention, and we are grateful," the official said.

A lawyer familiar with the case adds, "Now that the matter has been fully investigated by the government with no finding of wrongdoing by Hamilton, the Justice Department should now do the right thing and also move to have the *qui tam* case dismissed." ●