IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAMILTON SECURITIES GROUP, INC., 802 Rhode Island Avenue, N.E. Washington, D.C. 20002-1292 Plaintiff, v. U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OFFICE OF INSPECTOR GENERAL 451 7th Street, S.W., Room 8260 Washington, D.C. 20410-4500 Defendant.	)))))))))))))))	No. ____________

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. This is an action under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as amended, to compel the production of records concerning the U.S. Department of Housing and Urban Development ("HUD"), Office of Inspector General's ("OIG") 1996 audit of the Federal Housing Administration's ("FHA") mortgage loan sale program. The OIG's Rocky Mountain Regional Office, located in Denver, Colorado, conducted the audit.

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B).

PARTIES

3. Plaintiff The Hamilton Securities Group, Inc. ("Hamilton") is a Delaware corporation with its principal place of business in the District of Columbia. Until October 1997, Hamilton served as the crosscutting financial advisor to HUD on a series of contracts involving large-scale sales of FHA-held mortgages. Prior to entering into the crosscutting

financial advisor contract in 1996, Hamilton had served as the financial advisor for a number of HUD mortgage sales that began in 1993.

4. Defendant U.S. Department of Housing and Urban Development, Office of Inspector General is an agency of the United States, and has possession of and control over the records that plaintiff seeks.

STATEMENT OF FACTS

A. Background on HUD's Loan Sale Program

5. During the 1980s, the number of defaulted FHA-insured loans grew substantially. By 1993, HUD had accumulated a backlog of 2,400 multi-family mortgages and 95,000 single-family mortgages with an aggregate unpaid principal balance of $11 Billion. The non-performing mortgages cost the government hundreds of millions of dollars per year to service, and the workload associated with them prevented HUD staff from servicing anything but the most troubled loans.

6. Because of the backlog of defaulted loans, the larger mission of overseeing HUD's $400 Billion insured loan portfolio suffered. HUD's OIG and FHA's outside auditors both found the huge inventory of past due mortgages to be a "material weakness" in HUD's internal controls.

7. In the early 1990s, HUD implemented a loan sale program to deal with problems in its mortgage loan inventory. Congress expressly approved HUD's mortgage loan sale program and passed legislation to ease statutory requirements that HUD had to meet to sell mortgage loans.

8. Hamilton won a competitively bid procurement in 1993 to serve as a financial advisor to assist HUD in the sale of single-family and multi-family mortgages, as well as to provide other housing advisory services.

9. With the support of Hamilton and other financial advisors, HUD successfully conducted 19 loan sales from 1993 through 1997, disposed of more than 115,000 mortgages, and collected $6.5 Billion in proceeds. The program saved the U.S. government $2.1 Billion in avoided costs, as calculated on a "credit reform" basis.

10. HUD involved many of its divisions as well as outside agencies, including the Department of the Treasury, in the design and implementation of the loan sale program. HUD also made sure that HUD's own Office of Inspector General, Office of the Chief Financial Officer and Office of General Counsel ("OGC") all had significant input and ongoing involvement in the loan sale program. Both HUD's OIG and OGC reviewed the bid process, sales designs and internal controls, and were regularly provided with written descriptions.

11. From 1993 through 1997, Hamilton received additional contracts to assist HUD in the continuing loan sale program; remaining HUD's lead financial advisor on the program throughout that period.

12. With Hamilton serving as the lead financial advisor, HUD's loan sale program received numerous awards, including the Hammer Award given by Vice President Gore as a model for improved efficiency and re-engineering of government programs.

13. In addition to its own success, the loan sale program validated and gave energy (around 1995) to HUD's proposed legislation, called "mark-to-market". The mark-to-market program would enable HUD to restructure thousands of over-subsidized multi-family projects within the $400 Billion insured mortgage portfolio, many of which had been financed with syndicated tax shelters over the previous two decades.

14. In 1996, HUD awarded Hamilton the "crosscutting" services contract, pursuant to which Hamilton was to provide HUD with financial advisory services – which included helping HUD coordinate the work of other financial advisors – with respect to the

management, investment, and sales associated with HUD's $400 Billion insured mortgage portfolio.

B. Political Opposition Builds Against HUD's Re-Engineering Efforts

15. HUD's mark-to-market initiative triggered opposition from private subsidized rental housing real estate owners and developers because they stood to lose substantial fee income if property ownership and servicing were opened to competitive selection and price negotiation processes. In addition, private investors were concerned about adverse income tax aspects of the legislation.

16. While the loan sales provided substantial improvement in HUD's recovery rates and lower expense rates than prior workout strategies that had been used by HUD and its contractors, property owners and managers who were now required to meet contractual debt servicing obligations, renegotiate their loans or face foreclosure generally did not welcome the loan sales. The enormous savings to the government generated by the loan sale program represented improved private servicing of the loans by winning bidders, but existing HUD owners and managers could no longer negotiate attractive workout costs with HUD and its traditional loan servicing contractors. Instead, they would have to negotiate with more aggressive loan sale winners. Parties who were no longer competitive in the marketplace or who simply preferred a non-competitive environment had every reason to want to stop the loan sale program.

17. Notwithstanding the praise of the loan sale program and the fact that HUD had no complaints about Hamilton's performance, HUD program staff received complaints from defaulted borrowers, owners, managers who were concerned they would sustain economic loss because of the increased efficiency caused by HUD's loan sale and mark-to-market efforts. These sectors, which had enjoyed a cozy relationship with an inefficient

HUD prior to the loan sales, caused political interference with the program and Hamilton's role in it.

18. HUD conducted its "Partially Assisted Sale" in May and June 1996. The sale of almost $900 Million in multi-family loans collateralized by projects receiving some form of affordable housing assistance from HUD validated HUD's earlier "mark-to-market" proposal. This further alarmed large, subsidized real estate owners and developers, as conventional and corporate servicers continued to successfully out-bid and out-perform them on both loan sales and subsequent loan servicing contracts. As a result, they intensified their public relations and lobbying efforts opposing the loan sales program and Hamilton.

19. At about the same time, June 1996, Ervin & Associates (HUD's largest traditional loan servicer), filed a lawsuit against HUD in this Court. Ervin & Associates also released its complaints and other allegations to the media. In an apparent attempt to widen its allegations as broadly as possible, Ervin & Associates included charges that HUD had improperly favored Hamilton and also that Hamilton had improperly favored certain businesses with which it had relationships in the award of contracts, subcontracts and the loan bids themselves.

20. The Ervin & Associates' complaint and public relations campaign created adverse media attention and publicity. It also provided ammunition to critics of HUD and especially the loan sale program and "mark-to-market" proposals. HUD officials felt this pressure. Despite the obvious motives for Ervin & Associates' complaint, the lack of any role Hamilton had in the selection of contract winners, and the track record of success and savings that Hamilton helped create, HUD's Inspector General opened an investigation into various of the charges made by Ervin & Associates.

C. Background on the "Denver Audit"

21. In late 1995, **long before** Ervin filed its complaint and the OIG began its investigation, the OIG initiated a comprehensive audit of the loan sale program. *See* the Affidavit of former OIG Senior Auditor Cindy L. Ecker at ¶ 3, attached hereto as Exhibit A (hereinafter, "Ecker Aff.").

22. The OIG's Rocky Mountain Regional Office conducted the audit rather than the OIG's headquarters in Washington because certain members of the Denver office had substantial experience auditing similar loan sales conducted by the Resolution Trust Corporation ("RTC"). Ecker Aff. at ¶ 4. Because the Washington Office of HUD OIG had been intimately involved with many aspects of the loan sales, the audit was also assigned to the Denver office to insure that it was done independently, by those with no prior knowledge of, involvement with, or bias towards the program.

23. From January 1996 through September 1996, the Denver audit team conducted a thorough audit of HUD's process and procedures for managing the loan sale program. Ecker Aff. at ¶ 9.

24. The Denver audit team interviewed numerous HUD staff and contractors involved in the loan sales, evaluated HUD's internal procedures, and analyzed the financial data in detail. Ecker Aff. at ¶ 9.

25. The Denver audit team reviewed aspects of the program that were designed and/or performed by HUD's contractors, and in particular by HUD's lead financial advisor for the program, Hamilton Securities Group, Inc. Ecker Aff. at ¶ 10.

26. Over the course of the audit, the Denver team interviewed at least 20 individuals, comprising a broad cross-section of parties associated with the loan sale program.

They interviewed numerous HUD staffers and program contractors, including Kevin McMahan, Grace Huebscher and Rick Wolf of Hamilton Securities. Ecker Aff. at ¶ 11.

27. Because the loan sales were an ongoing program, the Denver audit team not only reviewed records from previous loan sales, but also were able to personally observe the loan sale program in action. For example, members of the audit team sat in on the bid selection process for a single-family loan sale in 1996. Ecker Aff. at ¶ 12.

28. Over the course of the audit, the Denver team made recommendations to HUD management for improvement in HUD's process and procedures for managing the loan sale program. However, the audit team came to the overall conclusion that the loan sale program was a successful example of government re-engineering, which was providing considerable benefits for taxpayers. Ecker Aff. at ¶ 13.

29. The Denver audit team concluded that proceeds from the loan sale program significantly exceeded the government's return on defaulted loans from the prior systems of negotiated workouts and/or foreclosure and sale of the property. By selling off the loans prior to foreclosure, HUD was eliminating the costs associated with carrying the properties. Ecker Aff. at ¶ 14.

30. Notwithstanding the ostensible objective of having an independent analysis conducted by the Denver-based audit team, the OIG's office in Washington, D.C. began interfering with the audit process, attempting to steer the Denver team towards unfavorable conclusions about Hamilton and the loan sale program itself along the lines of the Ervin allegations. Ecker Aff. at ¶¶ 15-18.

31. Prior to the inception of the OIG's investigation into the Ervin allegations, the Denver-based audit team already had spent approximately seven months studying the program.

32. Over the course of several weeks, staff from the Denver audit team met periodically with the investigation team to discuss the Ervin allegations, the scope of the audit, and whether the results of the audit included any evidence that supported the validity of the allegations being made. Ecker Aff. at ¶ 16.

33. The Inspector General's Counsel, Judith Hetherton, or auditor James Martin, in the Washington office were primarily responsible for these communications with the Denver audit team. Ecker Aff. at ¶ 16.

34. The audit team clearly communicated to the investigation team that nothing had come to their attention during the audit that supported the allegations made by Ervin & Associates. However, the investigation team repeatedly questioned the audit team about the scope and results of the audit. It seemed that Ms. Hetherton or members of the investigation team were certain that the audit team would find evidence of bid-rigging or other allegations raised by Ervin & Associates. Ecker Aff. at ¶ 17.

35. Despite the investigation team's insistence, the audit team found no evidence of wrongdoing on Hamilton's part or by any other company or individual associated with the program. They specifically found no evidence of bid-rigging, fraud or corruption. Ecker Aff. at ¶ 18.

36. If the audit team had found any such evidence, they would have referred it to the investigators at that time and continued with the audit, per standard OIG procedures. Ecker Aff. at ¶ 18.

37. By August 1996, the Denver audit team had compiled a considerable volume of in-depth research, analysis, interview notes and other workpapers relating to their audit of the loan sale program, and had drafted a report on the credit reform aspect of the loan sale program that they shared with OIG Headquarters. The report included a few findings

and recommendations regarding credit reform; however, the overall tone of the report was favorable. Ecker Aff. at ¶ 19.

38. At that time, the Denver audit team was close to wrapping up its work on the other audit objectives, and throughout the fieldwork they had verbally discussed with HUD staff several findings and recommendations for improvement in HUD's process and procedures for managing the loan sale program. The audit team was preparing to issue a second audit report that would include those findings and recommendations, but would also state their overall conclusion that the loan sale program was a success. Ecker Aff. at ¶ 20.

39. On the day that the audit team was scheduled to meet with HUD staff to discuss the credit reform report, OIG Headquarters' requested the Denver audit team attend a meeting with the investigation team and other staff from OIG Headquarters to discuss the credit reform report. At that meeting, Headquarters' staff directed the audit team to cancel the exit conference with HUD staff, and to suspend any further work on the audit. Ecker Aff. at ¶ 21.

40. OIG staff in Washington and the Denver office believed that the Inspector General's interference was improper, and that standard OIG procedures would have permitted the audit team to issue its final reports notwithstanding the existence of an investigation into Ervin's allegations.

41. The Inspector General's interference in the audit process was politically motivated, and Inspector General Susan Gaffney and Judith Hetherton personally wanted to discredit Hamilton and the entire loan sale program.

42. During the week of November 4, 1996, members of the Denver audit team traveled to Washington, D.C. to question OIG Headquarters' directive that they terminate

the audit. At that time, the Denver audit team already had completed all of the work necessary to finalize the credit reform aspect of the audit (and had drafted and circulated the credit reform report) and had completed most of the work needed to issue a report on the loan sale program and finalize the audit. Ecker Aff. at ¶¶ 19, 24 and 26.

43. The members of the Denver audit team met with Assistant Inspector General for Audit Kathryn Kuhl-Inclan and voiced the objection of the Rocky Mountain Field Office to Headquarters' decision to stop the audit, and asked Ms. Kuhl-Inclan what the basis was for the decision. Ecker Aff. at ¶ 25.

44. Ms. Kuhl-Inclan responded by saying that the Inspector General did not want the audit team talking to individuals who were also being questioned by investigators. However, the Denver team was already done with most of the interviews needed to finalize the audit, Ecker Aff. at ¶ 26, and OIG Headquarters knew that.

45. In a letter dated October 17, 1996 to Inspector General Susan Gaffney, Hamilton's President, Catherine Austin Fitts, referenced the anticipated report on the audit and the positive feedback that her team had received directly from the Denver audit team. Several days later, after receiving the third round of OIG subpoenae relating to the loan sale, Ms. Fitts called the Inspector General on the phone. On the issue of the audit report, Ms. Fitts stated, "you're not going to bury the Denver audit." Ms. Gaffney responded by telling Ms. Fitts that she would not bury the audit report because that would be unethical.

46. In December 1996, OIG Headquarters ordered the Denver audit team to assemble all of the workpapers for the loan sales audit and send them to Headquarters, which they did. Copies of the workpapers and other related documentation were retained at the Denver office and were still there in February 1998. Ecker Aff. at ¶ 27.

47. The audit paperwork that the Denver audit team prepared and/or compiled -- including the credit reform report and other documents that were sent to Washington, D.C. and the documents that remained in the Denver office -- were prepared/compiled for the purpose of accomplishing the audit objectives, and do not reveal any wrongdoing by parties associated with the loan sale program. Ecker Aff. at ¶ 28.

48. Because the Denver audit team had complete control over the audit, any paperwork prepared by that office cannot be viewed, vis-à-vis the OIG's Washington, DC office, as inter-agency communications to promote the deliberative process. Assignment to the Rocky Mountain Regional Office was intended to remove the OIG's main office in Washington, D.C. from the deliberative process.

49. Any reports, notes and facts compiled by the Denver audit team merely reflect the auditor's regular functions, and do not relate to the separate investigation of Hamilton launched by the Inspector General. Under standard procedures for OIG auditors, any evidence discovered that might indicate civil or criminal wrongdoing worthy of investigation would have been referred to OIG investigators, essentially separated from the audit so that the audit function could continue to its conclusion.

50. The Inspector General ordered the Denver auditors to stop working on their loan sale report specifically because the laudatory conclusions by the audit team would undermine the Inspector General's political motives and embarrass the OIG's main office, which had disrupted (to the point of termination) HUD's highly successful loan sale program and nascent mark-to-market programs.

51. The Inspector General did not order the Denver auditors to pack up and send all of their paperwork to the Washington OIG office to further any deliberative process or to facilitate the Inspector General's investigation into Hamilton or others associated with the

loan sales. Rather, burying the Hamilton-favorable Denver audit was necessary to further the Inspector General's individual political agenda.

52. Release to Hamilton of the credit reform report and any work papers, memoranda and drafts prepared by the Rocky Mountain Field Office cannot possibly interfere with any pending or prospective, **legitimate** law enforcement activity because those materials were laudatory of Hamilton and the loan sale program and contained no indication of criminal or civil wrongdoing.

D. Hamilton's Attempts to Obtain the Denver Audit Paperwork through the Administrative Process

53. For nearly 1½years, Hamilton has been a defendant in an enforcement proceeding before the Honorable Stanley Sporkin (Misc. No. 98-92), which was initiated by the OIG. In that proceeding, the OIG sought and received judicial enforcement of a series of OIG subpoenae dating back to August 1996. During the course of the enforcement proceeding, Hamilton has requested that the OIG provide it with copies of the draft Denver audit and all other paperwork prepared by the Denver audit team.

54. After unsuccessfully requesting copies of the audit paperwork from the Counsel to the Inspector General, Judith Hetherton, Hamilton's counsel, Michael J. McManus, put the request in writing on July 13, 1998, as per Ms. Hetherton's request.

55. By letter dated July 20, 1998, the Assistant Inspector General for Audit and Investigation denied Hamilton's FOIA request, stating that "the draft audit report, which pertains to only a part of the audit, is being withheld under 5 U.S.C. §§ 552(b)(5) and (b)(7)(A)." The OIG denied Hamilton's request primarily on a claim that the documents had been compiled for law enforcement purposes.

56. Hamilton appealed the Assistant Inspector General's decision by letter dated August 20, 1998.

57. By letter dated September 15, 1998, the Inspector General personally responded to Hamilton's appeal by sustaining the July 20, 1998 action of the Assistant Inspector General for Audit and Investigation.

58. On May 20, 1999, Hamilton was advised by the U.S. Attorneys' Office that it had declined criminal prosecution of Hamilton on matters arising from the OIG investigation.

59. Plaintiff has a statutory right to the records that it seeks, and there is no legal or legitimate basis for the OIG's refusal to disclose them.

60. The documents sought by Hamilton are not covered by 5 U.S.C. § 552(b)(5) because they consist of primarily factual material amassed during the Office of Audit's investigation into the loan sales program, and it is well-established that purely factual material is not subject to the deliberative process privilege. The audit report is a "by the numbers" assessment of the loan sales program, and as such does not reveal the inner workings of the agency or the thought processes used in developing agency policy, but rather is a routine, factual report.

61. The government cannot rely on 5 U.S.C. § 552(b)(7)(A) to prevent disclosure of the documents by placing them under the cloak of the OIG's ongoing investigation because the audit of the FHA loan sales program was not conducted in furtherance of any law enforcement proceeding, but rather was a regularly scheduled accounting activity undertaken well before the commencement of any OIG investigation. The U.S. Attorneys' Office has declined prosecution in this matter, and the OIG is unable to articulate how

disclosure of the documents would interfere with the continuing civil investigation that drags on.

62. Instead, the Inspector General is intentionally withholding exculpatory evidence, with no basis for doing so. Her decision to discontinue the audit and bury the results is both wrongful and illegal, done in furtherance of her efforts to cover-up her wrongful motives in commencing the investigation in the first place.

WHEREFORE, Hamilton respectfully requests that this Court:

(a) Declare the Defendant's refusal to disclose the records requested by Plaintiff is unlawful;

(b) Order Defendant to produce to Plaintiff the records prepared and accumulated by the Denver auditors;

(c) Award Plaintiff its costs and reasonable attorneys' fees as provided by 5 U.S.C. § 552(a)(4)(E); and

(d) Grant such other and further relief as this Court may deem just and proper.

Respectfully submitted,

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Michael J. McManus (D.C. Bar #262832)
Kenneth E. Ryan (D.C. Bar #419558)
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June __ , 1999

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HAMILTON SECURITIES GROUP, INC., 1735 Fraser Court, N.W. Washington, D.C. 20009 Plaintiff, v. U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OFFICE OF INSPECTOR GENERAL 451 7th Street, S.W., Room 8260 Washington, D.C. 20410-4500 Defendant.	)))))))))))))))	No. ____________

AFFIDAVIT OF CINDY ECKER

I, Cindy Ecker, being of legal age and sound mind state as follows:

1. From January 1, 1995 to February 20, 1998, I was employed by the Department of Housing and Urban Development, Office of Inspector General's ("OIG") Rocky Mountain Field Office located in Denver, Colorado. From May 26, 1996 to February 20, 1998, I was a senior auditor for the OIG.

2. As a senior auditor, I was responsible for a team of auditors assigned to audit HUD programs. Before joining the HUD OIG, I handled similar responsibilities for the Resolution Trust Corporation ("RTC").

3. In late 1995, the OIG Headquarters in Washington, D.C. instructed the Rocky Mountain Field Office to begin collecting information on HUD's then-ongoing loan sale program for the purpose of developing audit objectives. The OIG typically conducts audits

of major HUD programs as a regular check on HUD's performance and the performance and veracity of HUD's contractors.

4. I understood that the audit was assigned to the Rocky Mountain team because of my experience in auditing similar programs at the RTC.

5. Between August and October 1995, I spent approximately two weeks at headquarters collecting documentation on the loan sale program and conducting preliminary interviews with key personnel at HUD and HUD's contractors for the loan sale program.

6. I then submitted five or six audit objectives to the Assistant Inspector General of Audit ("AIGA"), who later instructed the Rocky Mountain field office to assign a full staff and proceed with the audit.

7. Included in the objectives I submitted was to evaluate HUD's process and procedures for awarding contracts related to the loan sales program. Based on my experience at the RTC, I anticipated that this audit objective would result in the most significant findings. However, the AIGA instructed me not to pursue this objective and said the work would be done by the Capital District Field Office.

8. The Denver Regional Inspector General for Audit (W.D. Anderson) and Assistant Regional Inspector General for Audit (R. Ernest Kite) had overall responsibility for managing the audit. I was lead auditor responsible for defining the audit scope and methodology and designing and implementing audit steps, procedures, etc. as required to meet the audit objectives. My Denver-based audit team included auditors Tim Lichner, Christine Begola, Lisa Knight and Beth Archibald.

9. From January 1996 through September 1996, the Denver audit team conducted a thorough audit of HUD's loan sale program. The audit involved interviews of

numerous HUD staff and contractors involved in loan sales, evaluations of HUD's internal procedures, and detailed analysis of the financial data. We also reviewed aspects of the program that were designed and/or performed by HUD's contractors, and in particular by HUD's lead financial advisor for the program, The Hamilton Securities Group, Inc.

10. Over the course of 9 or 10 months, the Denver audit team interviewed at least 20 individuals, comprising a broad cross-section of parties associated with the loan sale program and credit reform. We interviewed numerous HUD staffers and program contractors, including Kevin McMahan, Grace Huebscher and Rick Wolf of Hamilton Securities.

11. Because these were ongoing programs, we not only reviewed records from previous loan sales, but over the course of 10 months we were able to personally observe the loan sale program in action. For example, other members of the audit team and I sat in on the bid selection process for a single-family loan sale in 1996.

12. Over the course of the audit, my audit team came to the conclusion that the loan sale program was a tremendously successful example of government re-engineering, which was providing considerable benefits for taxpayers.

13. We also felt that Hamilton had been and was playing an integral part in assuring the success of the program. The Hamilton employees working on the loan sale program appeared to be very honest, intelligent, and dedicated to helping HUD re-engineer itself through the loan sale program.

14. Notwithstanding the Denver audit team's favorable impression of the loan sale program, OIG Headquarters began to interfere with the audit in June and July of 1996.

15. OIG Assistant Inspector General for Audit Kathryn Kuhl-Inclan, Counsel Judith Hetherton or auditor James Martin were primarily responsible for communicating instructions from the Washington Office to my audit team.

16. Over the course of several months, the Washington Office repeatedly insisted that we closely scrutinize Hamilton's activities and any improper ties that Hamilton might have to HUD employees, other HUD contractors or subcontractors and loan sale bidders. Ms. Hetherton or members of her team insisted that we should find evidence of bid-rigging or other allegations raised by Ervin & Associates.

17. Despite the Washington Headquarters' insistence, we found no evidence of wrongdoing on Hamilton's part or by any other company or individual associated with the program. We specifically found no evidence of bid-rigging, fraud or corruption. In contrast, we felt that Hamilton was providing exemplary service to the U.S. government and had designed a bid process that minimized opportunities for any party to gain an unfair advantage. If we had found any such evidence, we would have referred it to investigators, and continued with the audit.

18. The loan sale program more than doubled the government's return on defaulted loans from the prior system of negotiated workouts. By selling off the performing loans, HUD also was eliminating the enormous costs associated with carrying the properties.

19. From the beginning, OIG Headquarters' interference with the audit appeared to be a politically or personally motivated attempt by Susan Gaffney and Judith Hetherton to discredit the loan sale program and destroy Hamilton's reputation. It did not appear that Susan Gaffney or Judith Hetherton were focusing on any contractor besides Hamilton.

20. By August 1996, the Denver audit team had compiled a considerable volume of in-depth research, analysis, interview notes and other work papers relating to our audit of the loan sale program. We had drafted an overall favorable report on the credit reform aspect of the loan sales that we shared with OIG Headquarters. I also was prepared to draft a highly favorable report regarding the loan sale program itself and Hamilton's involvement in it.

21. I communicated those favorable conclusions to Inspector General Susan Gaffney, to Assistant Inspector General Kathryn Kuhl-Inclan, to Hamilton Securities, and to other HUD officials involved in the program.

22. After we had provided a copy of the favorable draft credit reform report to Kathryn Kuhl-Inclan at OIG Headquarters and I had explained to the Inspector General and others at OIG Headquarters that the written audit report on loan sales also was going to be favorable for the loan sale program and Hamilton, it became immediately clear to me from the reaction at OIG Headquarters that the Inspector General did not want that favorable story to be told. Specifically, [**Cindy to insert any specific reactions**].

23. In September 1996, just before I was scheduled to meet with Helen Dunlap to go over the credit reform report, Kathryn Kuhl-Inclan ordered me to assemble all of the audit paperwork for credit reform and loan sales and send it to the Washington Headquarters, which I did under protest. I concluded at the time that the Inspector General intended to bury the audit paperwork. We retained copies of all the paperwork and ancillary audit records at the Denver office, and they were there when I left the OIG in February 1998.

24. The audit paperwork that the Denver audit team prepared and/or compiled -- including the documents that I was ordered to send to Washington, D.C. and the docu-

ments that remained in the Denver office -- were prepared/compiled for regular audit purposes, and do not reveal any wrongdoing by parties associated with the loan sale program. Their release to non-governmental parties should not interfere with any legitimate investigative processes.

25. During the week of November 4, 1996, I traveled to Washington, D.C. with Tim Lishner and Lisa Knight to question the Inspector General's interference with the regular audit function.

26. I met with Kathryn Kuhl-Inclan and voiced the objection of the Rocky Mountain Field Office to Headquarters' interference with the regular audit. I also expressed the sentiment shared by me, and expressed by members of my audit team and others in the Denver office, that the Headquarters' staff had interfered improperly with the regular audit function.

27. Kathryn Kuhl-Inclan responded by saying that the Inspector General did not want us talking to individuals who were also being questioned by investigators; however, we were already done with all of the interviews needed to finalize the reports.

28. The political pressure surrounding the loan sale program and the audit was palpable within the Rocky Mountain Field Office and upon my trips to OIG Headquarters in Washington, D.C.

29. I left the OIG's office in February 1998.

30. The lingering controversy surrounding the OIG Headquarters' interference in the Denver audit contributed in no small part to my decision to leave government service. I was then, and remain, upset about the politically or personally motivated actions described above.

31. I am currently Vice President of Audit in the Denver office of a regional bank. My home address is 8998 West 101^{st} Avenue, Broomfield, Colorado 80021-3866.

I declare under penalty of perjury that the foregoing is true and correct.

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CINDY ECKER

STATE OF COLORADO)
) ss
COUNTY OF ___________)

SWORN TO BEFORE ME this ______ day of April, 1999.

____

Notary Public

My commission expires:____________________________________.