



**Homeowners Against Deficient Dwellings**

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July 19, 2005

Office of the Inspector General  
U.S. Department of Justice  
Investigations Division  
950 Pennsylvania Avenue, NW  
Room 4706  
Washington, DC 20530

RE: KB Home/FTC/HUD

Recently it was reported in several newspapers that the FTC will again fine KB Home for violating a Consent Decree signed over a quarter of a century ago. Speculation is that the fine will be \$2,000,000; however the final decision appears to be up to the Department of Justice. In the opinion of our national not for profit organization this is an inadequate fine for a company that has violated the Consent Decree over and over again harming tens of thousands of families in the 12 states they build in. The states are AZ, CA, CO, FL, GA, IL, NM, NV, NC, SC, TX, and WI.

- The original Consent Decree was signed in 1979. The Consent Decree ordered KB Home to stop building bad homes, fix those already built, offer a warranty equal to the former HOW warranty, and STOP using mandatory binding arbitration clauses in contracts and warranties.
- The Department of Justice on behalf of the FTC filed suit against KB in California in 1991. KB Home was fined \$595,000 and signed yet another Consent Decree. They continued to violate the Consent Decree.
- In 1995 KB Home asked the FTC if it could use binding arbitration. The FTC said no. KB Home continued to use mandatory binding arbitration anyway.
- In 1999 our organization began sending proof to the FTC about continuing violations.
- In 2001 something happened that caused KB Home to have to promise the FTC that it would no longer enforce the binding arbitration clause in its contract. They continued to use it anyway.
- On March 28 2003, KB Home restated that it wouldn't enforce the clause.
- After trying to enforce binding arbitration in cases in Laredo and Austin Texas, KB Home had to retract the statement it made to a federal judge in Laredo that the FTC

was silent on the issue (implying the FTC wasn't concerned), and state yet again that it would not enforce the arbitration clause.

- June 26, 2003 a KB letter to the FTC states that homeowners with 10 year warranties will not be bound by arbitration. KB begins to offer a ten year warranty with non-binding arbitration and a new 12 year warranty with mandatory binding arbitration. HADD feels that the 12 year warranty is misleading (most buyers would opt for the longer warranty because few understand the harm that can befall them due to mandatory binding arbitration clauses particularly when the arbitration service that must be used is listed in the warranty). The 12 year warranty is just another way to skirt the real intent of the FTC Consent Decree again -- NO binding arbitration clauses. Mandatory binding arbitration MUST be banned in ALL KB Home contracts and warranties as originally ordered in the FTC Consent Decree.
- July 2005 a news report that the FTC will recommend what HADD considers to be an inadequate fine for continued violation of both the 1979 and 1995 Consent Decrees that have harmed tens of thousands of KB homebuyers.

Another part of the original Consent Decree stated that KB Home must stop building bad houses and fix those that had already been built. This certainly never happened and defective construction of new homes continues to this day. HADD has documentation.

As consumer advocates it is clear to us that KB Home has disregarded FTC actions continuously over a quarter of a century and simply considers the fines a part of the cost of doing business. It is also clear to HADD that KB Home has taken part in serious other actions that have harmed homeowners and on two occasions at least, HUD/FHA.

- January 30, 2003, *KB Home settlement with HUD. Administrative payment of \$146,000 and agreement to indemnify HUD on 15 HUD/FHA insured loans, and pay HUD for losses associated with HUD/FHA insurance claims.* The Mortgage Review Board took action on the following basis; *violations of HUD/FHA requirements in the origination of HUD/FHA-insured loans where KBMC: Accepted fees for real estate settlement services when either no or nominal services were provided; failed to properly verify the source and adequacy of funds provided; failed to properly verify the source and adequacy of funds used for the down payment and/or closing costs; failed to properly verify, analyze, and calculate income used to qualify mortgagors; failed to properly consider and verify liabilities of the mortgagor and/or non-purchasing spouse; failed to properly document that judgments were paid-off or that the creditor was willing to subordinate the judgments to the insured mortgages; failed to update expired credit documents; and failed to provide compensating factors for ratios exceeding HUD/FHA standards.* The violations listed in the Federal Register closely resemble the predatory/fraudulent lending practices that the FBI and others are pursuing at this time in many states. Several of the criminals in these cases are being sentenced to jail time. Why does KB Home get by with a small fine and no admission of wrong doing? At the least a substantial fine is in order, and possibly criminal charges. Certainly executives with KB Home knew or should have known what their mortgage company was doing.
- July 6, 2005 HUD Press Release -- *"Largest settlement in history of Mortgage Review Board"*

WASHINGTON -- *The Department of Housing and Urban Development today announced it has reached a \$3.2 million settlement with KB Home Mortgage Company in connection with a series of alleged violations of HUD requirements. The \$3.2 million is the largest amount ever collected in the 30-year history of HUD's Mortgagee Review Board (MRB), which takes administrative actions against FHA-approved lenders. Two serious violations in two years. The fine is inadequate.*

- While \$3.2 million is a substantial fine, KB has stated in news stories that the most recent FTC and HUD fines will NOT hurt their bottom line. Was FRAUD in lending committed? If so shouldn't more be done to stop this company that has continued time and again to violate FTC and HUD rules and regulations? Ordinary citizens would serve jail time -- there has to be a way to severely punish corporations that continue to violate the rules of Federal agencies AND the customers they do business with. Should the executives who perpetrated these crimes be prosecuted as other fraudulent lenders are? Certainly a much more substantial fine is in order.

More KB Home violations that HADD is aware of. How many are there that we have not discovered?

- July 13, 2004 Arizona Department of Real Estate Press Release: Consent Order found developer/broker, KB Home in violation of Real Estate Laws in the SK Ranch subdivision in Casa Grande, Arizona. Civil penalties and payments in excess of \$43,000.
- Insurance Commissioners in California and Colorado say that KB Home is one of many homebuilders implicated in 2005 in the Title Company kick back schemes. Another HUD violation. *Homeowners refunded \$24 million in settlement with title insurer: Without admitting any wrongdoing, First American Title Insurance Co. of Santa Ana, Calif., agreed in February to refund \$24 million to homeowners in Colorado, Arizona, California, and other states in response to allegations that the company had in essence paid 16 large production-home builders to steer business its way. This Title Company paid a meaningful fine -- why is KB Home getting off the hook for less when their violations have been so longstanding, numerous, and egregious? The CO Insurance Commissioner stated in a news report that this scheme had been ongoing for 8 years. Homebuyers were harmed yet again. More states are now investigating.*

KB Home corporate earnings were reported: 06/23/2005 **LOS ANGELES, CA** -- KB Home reported that earnings for the second quarter rose 78% to \$181.5, on revenue of \$2.13 billion for the period. The company delivered 8,535 homes during the quarter, an increase of 20% over the previous year.

2004 Top 10 Most Highly Paid CEOs on Executive PayWatch

[Yahoo Inc.](#) Terry S. Semel \$109,301,385 [Apple Computer](#) Steven P. Jobs \$86,315,789  
[Coach Inc.](#) Lew Frankfort \$64,918,520 [TXU Corp.](#) John C. Wilder \$54,960,893  
[Occidental Petroleum](#) Ray R. Irani \$52,648,142 [NVR Inc.](#) Dwight C. Schar \$51,058,500  
[KB Home](#) **Bruce Karatz \$47,288,228** [Toll Brothers](#) Robert I. Toll \$44,240,611  
[Allegheny Energy](#) Paul J. Evanson \$40,543,354 [Motorola Inc.](#) Edward J. Zander \$38,851,374

Please notice that Bruce Karatz, KB Home CEO was one of the top ten on the Most Highly Paid CEO list for 2004. Mr. Karatz could pay these fines out of his checking account and never know it was gone.

With earnings like this can anyone believe that the fines against KB Home matter one bit to them? What IS clear is that tens of thousands of homeowners have been harmed by KB Home. Paying more for Title Insurance, being forced to binding arbitration for years in violation of the FTC Consent Decree and losing every time, defective construction that was not fixed by the warranty, and fraudulent lending that forced many of KB's homebuyers into foreclosure and bankruptcy.

As President of Homeowners Against Deficient Dwellings I am requesting that the Department of Justice put into place a meaningful, substantial, fine against KB Home that will stop them once and for all from destroying the people they sell their homes to, and insist that mandatory binding arbitration be eliminated from all of their contracts and warranties in accordance with the FTC Consent Decree's. A message needs to be sent to the home building industry -- many of whose members engage in the SAME practices as KB Home -- that this will not be tolerated.

Documents to prove all allegations can be provided.

Sincerely,

Nancy Seats, President, Homeowners Against Deficient Dwellings, Inc. (HADD) Signing for the HADD Board of Directors:

Nancy Seats, President Missouri  
John Cobarruvias, Texas  
Sandy Skipper-Lopez, California  
Scott Santora, Ohio  
Cindy Schnackel, Oklahoma  
Paula Schulman, Arizona

HADD has Representatives in AZ, CA, CO, CT, FL, IL, KS, MI, MN, MS, MO, NJ, NM, NY, OH, OK, OR, PA, SC, TN, TX, and WI, and homeowners in every state.

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FTC IG  
FBI Financial Institution Fraud Unit  
IRS OIG  
USPS OIG  
Senators and Representatives  
National Media  
Public Citizen  
Consumer Reports