

LITIGATION ALERT
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**Insurance Coverage denied in an Errors & Omissions Policy
Issued to Mortgage Broker**

A mortgage broker's employee who alters mortgage applications to reflect higher credit scores by potential borrowers is not covered by an errors and omissions insurance policy according to the U.S. Court of Appeals for the First Circuit in New Fed Mortgage Corp. v. National Union Fire Insurance Co., Appeal No. 07-2762.

New Fed Mortgage Corporation ("New Fed") is a mortgage originator and broker. One of its employees falsified the credit reports on certain mortgage applications. These applications were later approved by a mortgage lender which did business with New Fed. After the mortgage lender learned of the falsifications, it tendered a demand letter to New Fed for its loss. New Fed, in turn, requested coverage from National Union Fire Insurance under its errors and omissions policy. This demand was denied because the policy excluded from coverage "any Claim...alleging fraud, dishonesty, or criminal acts or omissions on the part of the Insured." New Fed sued National Union in federal court. The district court summarily dismissed the lawsuit and the First Circuit affirmed.

The First Circuit held that the mortgage lender's allegations in the demand letter, claiming that the loan applications were altered to reflect higher credit scores, fell squarely within the errors and omission's fraud and dishonesty policy exclusion, thus New Fed had no coverage for the related expenses or losses.

If you have any questions or comments, or wish additional information regarding this matter, please contact Francisco G. Bruno, Director of our Litigation Practice Group at (787) 250-5608 or fgb@mcvpr.com. The contact information of our Litigation Practice Group attorneys is available at our website: www.mcvpr.com.

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