

United States Senate

WASHINGTON, DC 20510

July 20, 2011

Mr. John Walsh
Acting Comptroller of the Currency
Office of the Comptroller of the Currency
Independence Square
250 E Street SW
Washington, DC 20219-0001

The Honorable Ben S. Bernanke
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, D.C. 20551

Mr. Martin Gruenberg
Acting Chairman
Federal Deposit Insurance Corporation
Washington, D.C. 20429

Dear Acting Comptroller Walsh, Chairman Bernanke, and Acting Chairman Gruenberg:

We write today to urge you to make public critical information related to enforcement actions taken against mortgage servicers regarding their improper foreclosure practices. This is especially important given this week's allegations that mortgage servicers continue to engage in widespread "robo-signing" despite your assurances that these illegal actions would not continue. Specifically, we request that you make public the following items related to the April 12, 2011 Consent Orders issued by your offices:

- All "Engagement Letters" governing the mortgage servicers' contracts with the consultants hired by the servicer to review that servicer's foreclosure actions;
- All "Action Plans" that mortgage servicers and third-party servicer providers are required to provide to regulators and that will outline the financial resources, organizational changes, measurement systems, governance controls, and timelines that will be adopted to correct improper foreclosure practices;
- All "Foreclosure Reviews" completed by consultants for each bank, which will outline the results of their investigations into whether ownership of promissory notes or mortgages were properly documented, whether foreclosures were undertaken in accordance with state and federal law, whether calculations under the Home Affordable Modification Program and proprietary loan modification programs were done correctly, whether borrowers were charged excessive or improper fees and penalties related to delinquency, and whether any errors identified caused financial injury to borrowers, among other items;
- Any other plans, policies, or processes submitted to your offices by mortgage servicers or third-party servicer providers pursuant to the April 12, 2011 Consent Orders whose disclosure is important to instill public confidence in the process and results of the foreclosure reviews.

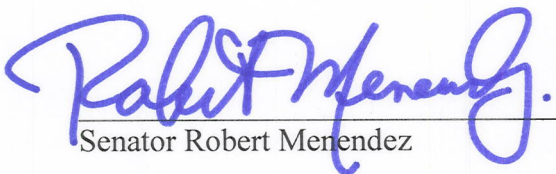
We believe it is essential that the items listed above be made available to the general public or the public will lack confidence in both the foreclosure review process and results. This is particularly the case because the foreclosure reviews are being performed by consultants who are chosen by the mortgage servicers themselves, and those consultants often have conflicts of interest in that they are not prohibited from getting future business from those same mortgage servicers. The information we are requesting is therefore necessary for the public to determine the independence of the consultants being engaged to perform the foreclosure reviews, the accuracy of the foreclosure reviews, the adequacy of the "Action

Plans” in responding to your findings, whether servicer performance meets the goals they have established, and whether those homeowners who experienced harm (such as being improperly foreclosed upon or denied mortgage modifications when they should have been granted under existing criteria) are given appropriate remedies. Based on a legal analysis by the non-partisan Congressional Research Service, we also believe that it is well within your regulatory discretion under existing laws to disclose this information in the public interest. This is consistent with your previous determination in April that release of the Interagency Review of Foreclosure Policies and Practices, which was essentially an examination report of foreclosure practices, was also in the public interest. We understand concerns about not revealing mortgage servicers’ proprietary information, but also believe that some disclosure can be done on a bank by bank basis without compromising proprietary information.

Furthermore, we believe that the full disclosure of these documents to the public is necessary given the recent reports by both the Associated Press and Reuters of the continued widespread practice of “robo-signing” among mortgage servicers. Both have alleged that servicers continue to file thousands of property documents that appear to be fabricated.¹ Reuters also quoted top representatives from the mortgage servicing industry saying that the Consent Orders have “not put a stop to questionable practices.” David Stevens, president of the Mortgage Bankers Association, tellingly said that some loan servicers “continue to cut corners” and “the real question is whether the servicer complied with all legal requirements.”²

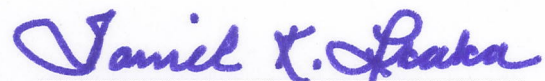
We respectfully request that all documents be made public and sent to Congress within one week of your office receiving them from mortgage servicers or third-party servicer providers. If you have any questions about this request, please contact Amanda Fischer at (202) 225-2201 or Michael Passante at (202) 224-4744. We appreciate your swift attention to this important matter.

Sincerely,


Senator Robert Menendez


Senator Richard Blumenthal


Senator Al Franken

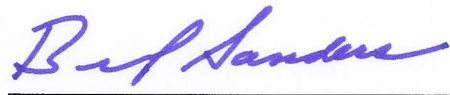

Senator Daniel Akaka

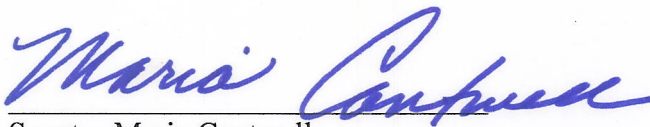
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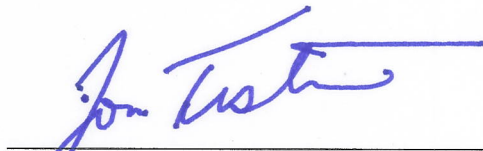
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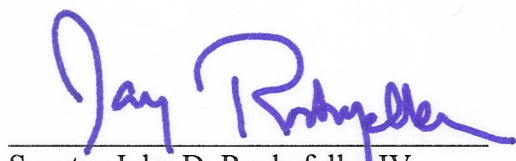
² <http://www.sun-sentinel.com/business/sns-rt-us-foreclosure-bankstre76h5xx-20110718,0,6208723,full.story>

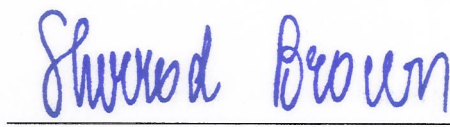

Senator Mark Begich


Senator Bernard Sanders


Senator Maria Cantwell


Senator Jon Tester


Senator John D. Rockefeller IV


Senator Sherrod Brown

Cc:
Mr. John E. Bowman
Acting Director
Office of Thrift Supervision
Department of Treasury
Washington, D.C. 20552