FORECLOSURES AT THE FRONT STEP OF THE FEDERAL RESERVE BANK OF CLEVELAND

HEARING

BEFORE THE

SUBCOMMITTEE ON DOMESTIC POLICY

OF THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

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FORECLOSURES AT THE FRONT STEP OF THE FEDERAL RESERVE BANK OF CLEVELAND

MONDAY, MAY 21, 2007

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON DOMESTIC POLICY,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Cleveland, OH.

The subcommittee met, pursuant to notice, at 10:30 a.m., at the Carl B. Stokes Federal Court House, 801 West Superior Avenue, Cleveland, OH, Hon. Dennis J. Kucinich (chairman of the subcommittee) presiding.

Present: Representatives Kucinich and Issa.

Staff present from the Subcommittee on Domestic Policy: Jean Gosa, clerk; and Jaron R. Bourke, staff director.

Present from the Office of Mr. Kucinich: Joseph Benny, district director; Marty Gelfand, JD, staff counsel; Marian Carey, MBA, deputy district director; Patricia Vecchio, MSN, Steve Inchak, MSSA, Luis Gomez, Laurie Rokakis, MSW, Christine Miles, Betty Rodes, and Lynn Vittardi, congressional staff; and Lisa Casini, scheduler.

Mr. KUCINICH. The committee will come to order.

Good morning. I'm Dennis Kucinich, chairman of the Subcommittee on Domestic Policy of the Committee on Oversight and Government Reform, and with me today is the ranking member of the committee, Mr. Issa. Mr. Issa, by the way, is a native Clevelander, and it's particularly meaningful to have him here today to join in co-chairing this committee. I want to say that we would be joined by Congresswoman Stephanie Tubbs Jones, but, unfortunately, Congresswoman Jones' father passed away. The funeral is today. My wife and I just returned from the wake, and Congresswoman Tubbs Jones has a representative here, I believe, or will have a representative from her office here, and she is, therefore, represented. I just want to make that a matter on the record.

I also want to say, before I begin, that we're very pleased to have had the cooperation of the chief judge of the Federal court here from the Northeastern Ohio District, Judge Carr, and creating the opportunity for us to have these facilities. So, I just want to express the gratitude of the committee for Judge Carr making available what is a beautiful hearing room.

And in addition to that, for me it's an honor to be here in a building that is named after someone who was a very dear friend of mine, and someone who gave outstanding service to this committee on so many different levels, legislative, executive and judicial, Judge Carl Stokes. The memory of Carl Stokes, a very powerful force in this community and this country, and to be in a Federal court house that's named after him is certainly an honor. Today's hearing is going to examine the subprime mortgage industry and the problem of foreclosure, the pay day lending industry and the enforcement of the Community Reinvestment Act. The hearing will also examine alternatives to foreclosures and to pay day lending. Now, without objection, the chair and the ranking minority member will have 5 minutes to make opening statements followed by opening statements not to exceed 3 minutes by any other Members who may join us. Without objection, Members and witnesses may have 5 legislative days to submit a written statement or extraneous materials for the record.

Our first panel today, which we'll get to in a minute, but I want to acknowledge their presence, includes Charles Bromley, an adjunct faculty member of the Levin College of Urban Affairs. Jim Rokakis, the treasurer of Cuyahoga County and Barbara Anderson, as a member of the Eastside Organizing Project.

Yesterday my wife and I and Councilman Santiago and other members of the community went throughout a neighborhood on the southeast side around our Lady of Lourdes Parish, and we went up and down streets, and what we saw was something that really is heartbreaking because there was street after street, row after row of boarded up houses. Many of them representing the shattering of a dream. Many people bought these homes with the full intention of being able to meet the mortgages but ended up in conditions and payments that were onerous and lost the house.

And, of course, the community has lost an opportunity for productive citizens to participate in not just home ownership, but participate in this process of community.

It turns out that Cleveland is at the epicenter of the Nation's foreclosure problem. Major American cities are bracing themselves for a wave of foreclosures. The Center for Responsible Lending projects that one out of every five subprime mortgages that originated during the past 2 years will end in foreclosure. These foreclosures will cost homeowners as much as $164 billion, the exact cost of urban America is unknown.

And when you look at this map that we've prepared, and Gelfand, our chief counsel, will have the opportunity to, perhaps, demonstrate it, you will see a sideways V that is highlighted in light green. Let me tell you what the geographical area represents. It is the area in the city where depository banks made very few prime loans. And if you look at the next map highlighted in reds and oranges, if you look at the same V in the same place, this geographical area represents where the highest number of subprime mortgage loans were made during the same year. And if you look at the following map, again, the same V pattern and the same place, here the red dots indicate the number of foreclosures.

These maps tell you there is a clear and self-enforcing correlation between the low number of prime loans, the high number of subprime loans and the high number of foreclosures.

Now, finally, the last map, again, the familiar sideways line V shape. For here, the foreclosures indicated by blue dots are superimposed on the neighborhoods, red, indicates predominantly African American neighborhoods, again, a perfect match. Lack of access to prime loans, high frequency of subprime loans and a high rate of foreclosures, are by no means specific to any racial group, but the pattern certainly carries a whiff of America's dark past.

Now, how did our city get to this point? The Domestic Policy Subcommittee initiated an examination of the predatory mortgage and subprime lending industries and the Federal regulators overseeing the Nation's banking industry. As part of that effort, we held a hearing on March 21, 2007, in which we heard from Leading Consumer on academic and industry representatives. The very next day the Domestic Policy Subcommittee wrote a letter to the Cleveland Fed in reference to the proposed merger of Huntington Bank and Sky Financial.

We asked the Cleveland Fed to extend the public comment period and to hold a public hearing. And the public hearing—and in view of the—to hold a hearing in view of the lack of the depository lending and the explosion of subprime lending and foreclosures. The Fed wrote back a letter, and I believe we have it here, and their response was, no, they will not extend the public comment period, and, no, they would not give a commitment to holding a public hearing. They only said that they would consider doing so.

Now, I have wondered how serious—and without objection, I would like to submit this letter for the record. I wondered how serious is the consideration given to holding public hearings. According to one of our witnesses today, the last time the Cleveland Fed held a public hearing in a bank merger case was nearing 30 years ago.

I will say at the outset that this hearing will not delve into the details of the Huntington/Sky merger because it is a pending matter before the Fed. And I ask that members of the subcommittee understand that we shall not influence any particular outcome of the proposed merger, nor will we pursue any questioning about it, or the Fed to hold a public hearing itself.

The matter could be fully discussed by all stakeholders. However, unless the Cleveland Fed holds a public hearing, that conversation will not take place as is beyond the scope of today's congressional hearing. The purpose of today's hearing is to examine the situation facing Cleveland, specifically Cleveland, but Ohio generally, and to hear from the chief regulator of banking mergers in this region, Cleveland Fed. Ohio leads the Nation in the rate of foreclosures.

Ohio's foreclosure rate, 3.3 percent, is about three times the national rate and has the second highest percentage of loans and serious delinquencies according to the Mortgage Bankers Association. Cuyahoga County, which includes Cleveland, had 11,000 foreclosures in 2005, more than tripled the number a decade ago and 13,610 foreclosures in 2006.

Subprime lending is associated with significantly higher levels of foreclosure than prime lending. Foreclosure rates are 20 to 30 times greater than subprime loans. This finding is reflected in Cleveland's experience with a rapid growth in the subprime lending market in the rising number of the foreclosures.

In Cleveland, in 1995, the local depositories were about 60 percent of the market share of mortgages. By 2005 that number dropped to 20 percent. The Federal Reserve of Cleveland oversees the Fourth Federal Reserve District, which comprises Ohio, Kentucky and northern West Virginia and western Pennsylvania. It is one of 12 regional reserve banks that, in conjunction with the Board of Governors in Washington, DC, make up the Federal Reserve System.

The Fed has the primary responsibility of supervising and regulating the activities of State and local banks and bank holding companies. In the case of an acquisition, the Fed is required to take into account the likely effects of acquisition on competition, the convenience and needs of the communities to be served, the financial and managerial resources and future prospects of the companies and banks involved, and the effectiveness of the companies' policies to combat money laundering.

I think one question, the maps I referred to a moment ago, raises this: How well have the convenience and the needs of the communities been served over the last 30 years, especially in the last 10 years as the predatory lending and foreclosure problems have exploded? I think one of the few questions raised by the magnitude of the foreclosure crisis in Ohio includes: What was the Cleveland Fed doing to lessen the problem? What enforcement tools were the Cleveland Fed advocating for? Was the Cleveland Fed acting proportionately with the foreclosure problem? What recognition did the Cleveland Fed show that it had a foreclosure crisis at its front step? Did the Fed adequately use its considerable power to curve an industry that preyed upon borrowers, distort the market and reeked havoc not just on borrowers but on their neighborhoods, cities and regions. I hope that we may begin to get answers to that and other questions today.

At this point I would like to—at this point I would like to recognize the ranking member of the committee, Darrel Issa of California. I want to thank Mr. Issa for being with me this morning as we conduct this hearing. The chair recognizes Mr. Issa.

[The prepared statement of Hon. Dennis J. Kucinich follows:]

Statement of Dennis J. Kucinich
Chairman, Domestic Policy Subcommittee
Oversight and Government Reform Committee
May 21, 2007

Cleveland is at the epicenter of the nation's foreclosure problem of foreclosure. Major American cities are bracing themselves for a wave of foreclosures. The Center for Responsible Lending projects that one out of every five subprime mortgages that originated during the past two years will end in foreclosure. These foreclosures will cost homeowners as much as $164 billion—the exact cost they will have on urban America is unknown.

Look at this map. You see the sideways lying V highlighted in light green? Let me tell you what that geographical area represents. It is the area in the city where depository banks made very few prime loans.

Now look at the next map, highlighted in reds and oranges—look at the same "V" and the same place. This geographical area represents where the highest number of subprime mortgage loans were made during that same year.

Look at the following map. Again the same "V" and the same place. Here the red dots indicate the number of foreclosures. These maps tell you that there is a clear and self-reinforcing correlation between the low number of prime loans, the high number of sub-prime loans, and the high number of foreclosures.

Finally, now, look at this last map. Again the familiar sideways-lying "V" shape. But here the foreclosures, indicated by blue dots, are superimposed on the neighborhoods – red indicates predominately African-American neighborhoods. Again, a perfect match.

Lack of access to prime loans, a high frequency of subprime loans and a high rate of foreclosures are by no means specific to any racial group, *but* the pattern certainly carries a whiff of America's dark past.

How did our city get to this point?

The Domestic Policy Subcommittee, which I chair, has initiated a broad reaching examination of the predatory mortgage and subprime lending industries, and the federal regulators overseeing the nation's banking industry.

As part of that effort, we held a hearing on March 21, 2007 in which we heard from leading consumer, academic and industry representatives. The very next day, the Domestic Policy Subcommittee intervened in a major bank merger in Ohio -- the proposed merger of Huntington Bancshares and Sky Financial. We asked the Federal Reserve Bank of Cleveland, which is the primary regulator, to extend the public comment period and to hold a public hearing.

The Fed wrote back this letter (show it). No they said, they will not extend the public comment period. And no, they would give no commitment to holding a public hearing. They said only that they would "consider" doing so.

I have wondered how serious is the consideration given to holding public hearings. After all, the last time the Cleveland Fed held a public hearing in a bank merger case was, I believe, nearly thirty years ago.

I will say at the outset that this hearing will not delve into details of the Huntington/Sky merger *because* it is a pending matter before the Fed. Were the Fed to hold a public hearing itself, the matter could be fully discussed by all stakeholders. Unfortunately, that is beyond the scope of today's congressional hearing.

The purpose of today's hearing is to examine the situation facing Cleveland, specifically, and Ohio, generally, and hear from the chief regulator of banking mergers in this region, the Cleveland Fed. Ohio leads the nation in the rate of foreclosure. Ohio's foreclosure rate (3.3%) is about three times the national rate, and has the second highest percentage of loans in Serious Delinquency, according to the Mortgage Bankers Association. Cuyahoga County, which includes Cleveland, had 11,000 foreclosures in 2005, more than triple the number a decade earlier, and 13,610 foreclosures in 2006.

Subprime lending is associated with significantly higher levels of foreclosure than prime lending. Foreclosure rates are 20 to 30 times greater for subprime lending as for prime.[1] This finding is reflected in Cleveland's experience with a rapid growth in the subprime lending market and the rising number of foreclosures. In Cleveland in 1995, local depositories held about 60% of the market share of mortgages. By 2005, that number had

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[1] Dan Immergluck and Geoff Smith, *The External Costs of Foreclosure: The impact of single-family mortgage foreclosures on Property Values*, Housing Policy Debate, Volume 17, Issue 1, Fannie Mae Foundation, (2006)

dropped to 20%. As I indicated earlier, the number of foreclosures tripled during that period.

The Federal Reserve Bank of Cleveland oversees the Fourth Federal Reserve District, which comprises Ohio, eastern Kentucky, and northern West Virginia, and western Pennsylvania. It is one of twelve regional Reserve Banks that, in conjunction with the Board of Governors in Washington, D.C, make up the Federal Reserve System. The Fed has the primary responsibility of supervising and regulating the activities of state member banks and bank holding companies. In the case of an acquisition, the Fed is required to take into account:

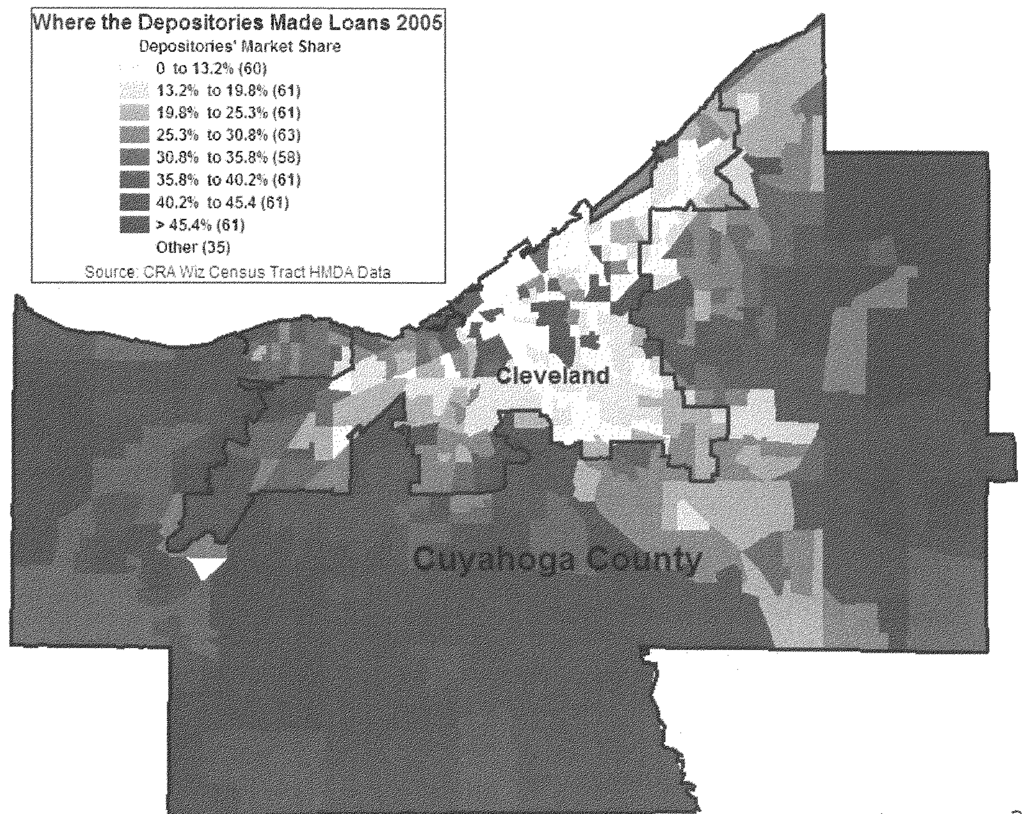
1) *the likely effects of the acquisition on competition;*
2) *the convenience and needs of the communities to be served;*
3) *the financial and managerial resources and future prospects of the companies and banks involved; and*
4) *the effectiveness of the company's policies to combat money laundering.*

I think one question the maps I referred to a moment ago raise is this: how well have the "convenience and needs of the communities" been served over the past 30 years, and especially in the last 10 years, as the predatory lending and foreclosure problems have exploded?

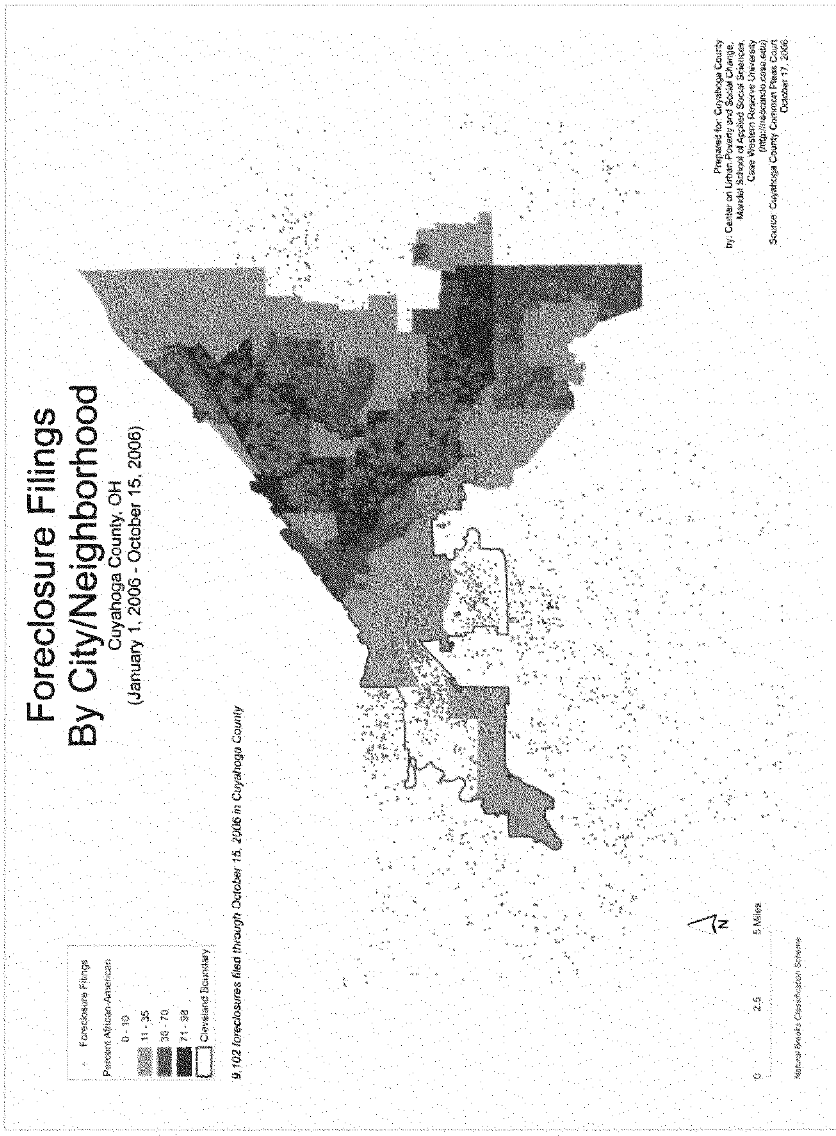
I think a few of the questions raised by the magnitude of the foreclosure crisis in Ohio raises include, What was the Cleveland Fed doing to lessen the problem? What new enforcement tools was the Cleveland Fed advocating for? Was the Cleveland Fed acting proportionately to the foreclosure problem?

What recognition did the Cleveland Fed show that it had a foreclosure crisis at its front step?

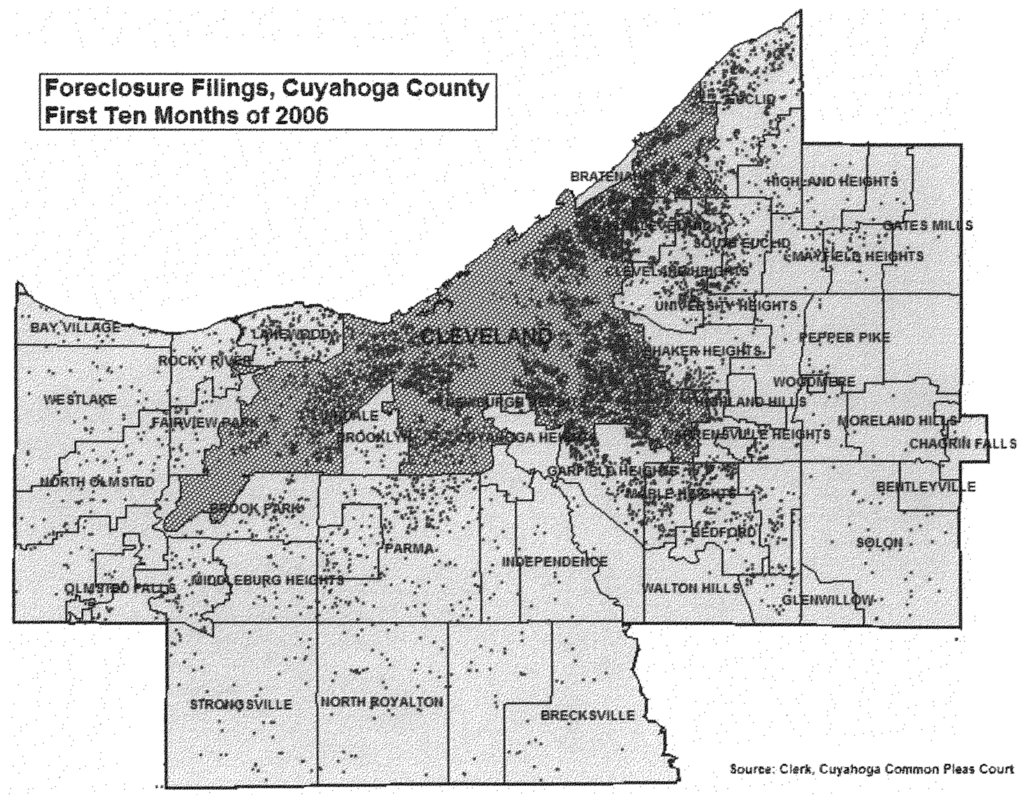
I hope that we may begin to answers to that and other questions today.



Paul Bellamy, J.D., PhD.

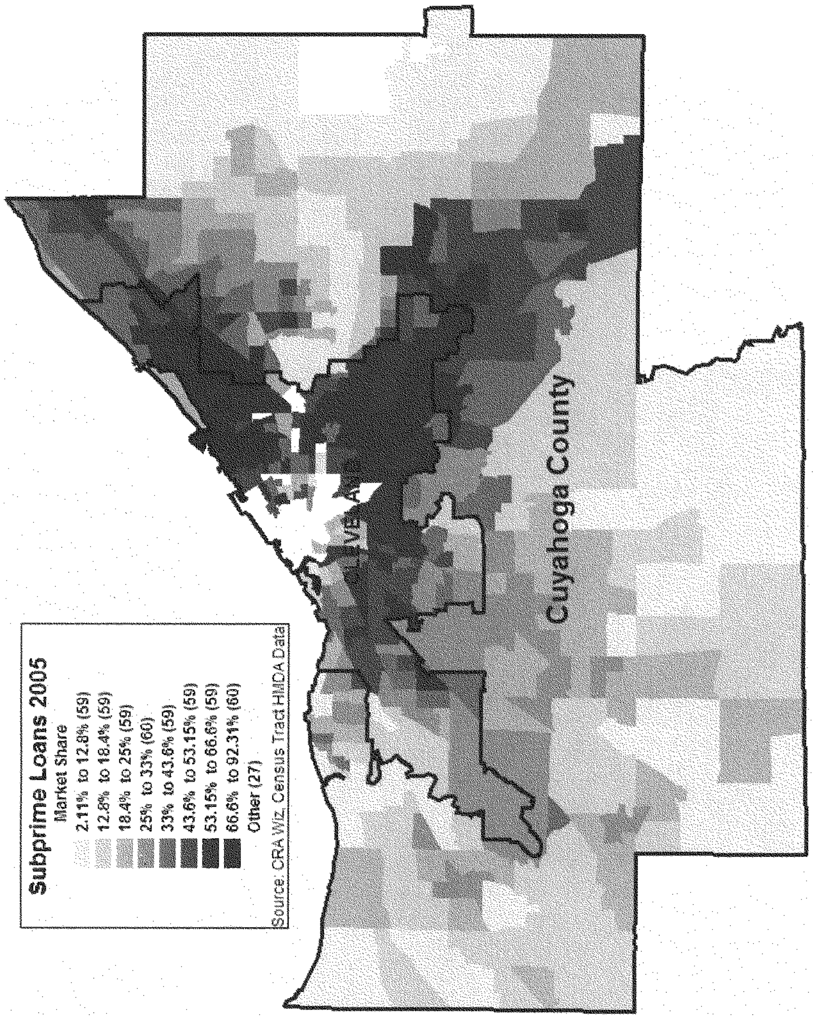

Foreclosure Filings
By City/Neighborhood
Cuyahoga County, OH
(January 1, 2006 - October 15, 2006)
Foreclosure Filings
Percent African-American
0 - 10
11 - 35
36 - 70
71 - 98
Cleveland Boundary
9,102 foreclosures filed through October 15, 2006 in Cuyahoga County
N
0
2.5
5 Miles
Natural Breaks Classification Scheme
Prepared for: Cuyahoga County
by: Center on Urban Poverty and Social Change,
Mandel School of Applied Social Sciences,
Case Western Reserve University
(http://neocando.case.edu)
Source: Cuyahoga County Common Pleas Court
October 17, 2006

Foreclosure Filings, Cuyahoga County
First Ten Months of 2006



Source: Clerk, Cuyahoga Common Pleas Court

Paul Bellamy, J.D., Ph.D.



Paul Bellamy, J.D., Ph.D.

Mr. ISSA. Thank you for holding this very important hearing as a followup to what we've already done in Washington.

I am fortunate to serve. This is the second go-around. In the last Congress we did a lot of hearings that we did together on a bipartisan basis and are continuing to. And I hope that everyone here today understands that's a spirit in which we come here, that when you look at the numbers, you look at Cuyahoga County, OH as a whole versus the Nation.

There's clearly a problem in this region, and understanding the problem of this region before it spreads or to discover whether it will spread to other parts of the country, will certainly, for me, be part of the focus here today. As the chairman very much said, we're not here to discuss a pending merger, but I think we will be listening appropriately to some of the concerns that Chairman Kucinich raised about competition. I, for one, come from California now, even though I'm a native of Cleveland. As a result, I come from an area that has almost the reverse of what's going on here in Ohio. Unemployment is at a historic low. Home prices have risen more than double on the average in California in the same period in which they were pretty flat here in Ohio.

As a result, if you had a subprime loan and still have one in California, but you didn't refinance, you probably have 50 percent plus equity in your home in California. Well, here you may have exactly the same equity that you originally bought your house with. So, there are things that are different. Certainly, I believe that we're going to look at that today.

We're going to look at whether the Fed exercised what it could exercise under the HOEPA, the Home Ownership Protection Act, which as I understand and we'll hear more today, gives authority, but limited enforcement, and that's something, perhaps, that we'll see and hear more when the Fed has their chance.

I must admit, I took a little nostalgic tour of Cleveland, Cleveland Heights, Shaker, the whole east side yesterday, and perhaps because I haven't been here much longer than the chairman, I saw the part of the cup that was half full. I saw the areas of Hough and going up Chester and Carnegie. I saw brand new homes where I remember only, to be honest, ancient homes that were boarded up. I still saw some boarded up homes.

But I see the promise for Ohio if, in fact, we can keep home ownership alive. I think the chairman and I will work together in Washington to take what we learn here today and make sure that, at a minimum, Congress is doing what it can to continue promoting home ownership.

I also think that we're going to have to look beyond banks, and beyond banks, the regulatory authority of banks. As a Californian, where California has the right, as Ohio has the right to regulate mortgage brokers, I believe that both States have done, at best, a limited job of doing so.

As I'm sure the chairman and those testifying today will agree, mortgage brokers are the people that actually talk the consumer into making that loan. It is very seldom, if ever, a federally regulated bank.

As Members of Congress, we, in fact, zealously guard our oversight ability, and I believe today is just a splendid example of good oversight, coming out here and looking beyond what we would normally see in Washington and with constituents to have an opportunity to see that Washington is not all about Washington.

My hope today is that we cannot only get to the root of many of the problems that plague the subprime industry nationally, but that we can effectively differentiate what's going on nationally from regional and local problems. This is particularly important because, we as Federal regulators, have limited authority, but we can grant additional authority to ourselves as we see fit. But often the thing we need to do most is to say, what are we doing? Are we doing enough. Should we do more? And if the answer is, we are doing enough, then the next question is are the State and local areas empowered to do enough?

Is it clear that, for example, mortgage brokers are the responsibility of the States, and if, in fact, they are untruthful or predatory in their lending practices, no amount of enforcement directly from the Fed is going to have the same effect as the State attorney general and the State legislature.

So, Mr. Chairman, I want to once again thank you for holding this important hearing. I think I've contrasted a little bit of what I'm hoping to see here today, but I think at the end of the day it's what we both want to see that's going to make us effective when we return to Washington, and I yield back.

Mr. KUCINICH. I thank the gentleman from California. Without objection, the members of this committee will have 5 legislative days to submit a written statement or extraneous materials for the record. Without objection, the members of the Ohio Delegation who have the desire to submit a written statement or extraneous materials for the record, will be able to do so.

Without objection, the public officials who are here today who will not be testifying, but, nevertheless, represent constituencies such as a Councilman Brancatelli, Councilman Santiago and others, will be able to submit written statements and extraneous materials. And the community groups, including those from Slavic Village who were able to walk with us yesterday and from North East Side Community, will be able to submit written statements and provide extraneous materials for the record, Mr. Issa.

OK. So, at this point we are now going to be hearing from the witnesses, and I want to start by introducing our first panel. I'll begin by introducing Mr. Rokakis. Now, Mr. Rokakis took office as the Cuyahoga County treasurer in March 1997 after serving for over 19 years on the Cleveland City Council, and I had the honor in serving with Mr. Rokakis.

Mr. Rokakis brought sweeping reform to the treasurer's office. He spearheaded House Bill 294, which streamlines foreclosure process for abandoned properties. He was instrumental in creating Cuyahoga County's Don't Borrow Trouble Prevention Foreclosure Program.

Mr. Rokakis developed nationally recognized link deposit loan programs to help revitalize the county's housing stock.

Additionally working past Ohio House Bill 293, that allowed senior citizens to defer property tax payments.

Governor Ted Strickland has appointed Mr. Rokakis to Ohio's recently formed task force on foreclosures in Ohio. And I just wanted said, Mr. Issa, that Mr. Rokakis has really been an important leader on this issue, and we're very grateful for his presence here today.

Ms. Barbara Anderson is the treasurer of the Predatory Lending Action Committee of ESOP, Empowering and Strengthening Ohio's People. ESOP was founded in 1993 to create organized leadership around issues that impact neighborhood life in Cleveland. Ms. Anderson is a long-time community leader in Cleveland's Slavic Village.

And, finally, the last witness of our first panel will be Mr. Charles Bromley, who is an adjunct faculty member at the Levin College of Urban Affairs. He is a Presidential scholar in the SAGES Program at Case Western Reserve University and chair of the Ohio Fair Lending Coalition. He's led the first organizations to document the relationship between foreclosures and predatory lending and unfair lending practices and their impact on Greater Cleveland neighborhoods.

I want to thank the witnesses for appearing before the subcommittee. It is the policy of the committee on Oversight and Government Reform to swear in all witnesses before they testify. I'm going to ask that the witnesses rise and raise your right hands.

[Witnesses sworn.]

Mr. KUCINICH. Thank you. Let the record reflect that the witnesses answered in the affirmative.

Now, I'm going to ask each of the witnesses to now give a brief statement, a brief summary of their testimony and to keep this summary under 5 minutes in duration.

I want you to bear in mind that your complete written statement will be included in the hearing record. I'd like to begin and have the chair recognize Mr. Rokakis, the treasurer of Cuyahoga County. Welcome. Please proceed.

STATEMENT OF JAMES ROKAKIS, TREASURER OF CUYAHOGA COUNTY

Mr. ROKAKIS. Thank you, Chairman Kucinich. And Congressman Issa, welcome home. Our baseball team is better than it was when you left, but I'm afraid to say that our football team may be worse.

Mr. ISSA. But we got rid of Modell, didn't we?

Mr. ROKAKIS. Thank you, Mr. Chairman and members of this committee for allowing me the opportunity to speak here today. The crisis of foreclosures and the meltdown in the subprime lending market has dominated the news the past 6 months, but is a problem we have been struggling within northeast Ohio and Cleveland, in particular, since the mid 1990's when our foreclosure rate took off here. From a low of 3,500 private mortgage foreclosures in 1995, our foreclosure rate climbed steadily in the 90's to over 7,000 foreclosures filed by 2000. Undoubtedly, a weak economy played a role in the doubling of the foreclosure rate, but other forces were at work. The development of the secondary mortgage market and great access to capital markets had created an insatiable demand for mortgages and an increase in reckless lending practices, local governments struggling to deal when this explosion cried out for help.

In March 2001, my office co-hosted, along with CSU School of Urban Affairs, a conference at the Cleveland Federal Reserve Bank on the topic of foreclosures. In 2002, three Ohio cities, Cleveland, Toledo and Dayton, passed anti-predatory lending ordinances in an attempt to fill the void created by an oblivious State government and a Federal reserve that failed to recognize the crisis. These local laws were preempted by State laws passed by the Ohio Legislature within 60 days of their package.

An especially bold industry became even greedier and more reckless, and our foreclosure rate continued to climb to over 13,000 private mortgage foreclosures filed last year. And sadly we predict, based on first-quarter filings in 2007, to over 16,000 foreclosures this year, the equivalent of foreclosing on every owner-occupied unit in the cities of Garfield Heights, Middleburg Heights and Olmsted Falls.

The Federal Reserve Bank has the authority under the Truth in Lending Act and the Home Ownership Protection Act to ban all of the practices that have fed this mortgage craze and led to this foreclosure frenzy. They can ban no-document loans, but have not. They can ban loans that are not fully indexed to a borrower's income, but have not.

They can ban the practice known as risk layering where borrowers with the weakest credit are offered multiple gimmicks to qualify them for a loan, but they have not. They can require that all subprime loans provide for the escrow of taxes and insurance in their payments, but they do not.

They continue to hide behind the need to protect the subprime industry, but this argument fails to recognize that almost 90 percent of subprime loans are financed and nearly all of those are adjustable rate mortgages that will, with a considerable degree of certainty, double the payment within 5 years and cost that borrower their home. I am stunned at the number of elderly homeowners who have refinanced their homes late in life, stripping their equity out of the property and saddling them with a debt level they cannot afford.

In 1983, the average 65-year-old homeowner had $11,000 in debt on their primary residence. By 2004, that number had climbed to 47,000. Yesterday's New York Times had an article that zeroed in on unscrupulous telemarketers, people who focus their efforts on the elderly and target them for products they don't need and can ill afford.

This practice has been going on in the mortgage refinance business for years. We see evidence of it on people who have been refinanced and promised that their property taxes were part of their monthly payment, only to find out they had been lied to, and they found their names in the newspaper because they had failed to pay their property taxes.

Last week, Federal Reserve Chairman Ben Bernanke, spoke to an audience in Chicago on the topic of the subprime mortgage market. He spoke of a foreclosure and/or delinquency rates of more than 60 days as approaching 11 percent in the subprime market. I wish that were the case in Cleveland.

In January, Larry Litton, CEO of Litton Loan Servicing, shared his Cleveland numbers with me, 11.41 percent already foreclosed in their portfolio, 16 percent in foreclosure for a total of 27.41 percent. If you add their loans that were 30 days late, which were another 18.5 percent, a stunning 46 percent of their loans in Cleveland were underwater or sinking fast, 46 percent. Let me read from Chairman Bernanke's conclusion in Chicago last week: "Markets can overshoot, but ultimately, market forces also work to rein in excesses. For some, the self-correcting pull back may seem too late and too severe, but I believe the long-run markets are better than regulators at allocating credit. We must be careful not to express responsible lending or eliminate refinancing opportunities for subprime borrowers."

In the mid 1970's, New York City was facing a bankruptcy and looked to the Federal Government for a bailout. Gerald Ford was President and said no. New York Daily News headline read, "Ford to NYC: Drop dead." The position of the Fed on this issue, their failure to regulate their unwillingness to recognize the severity of this crisis should elicit a new headline: Fed to Cleveland: Drop dead. Fed to Dayton, Toledo, Detroit, Buffalo, Cincinnati: Drop dead.

Members of this committee, I don't believe the Federal Reserve Bank will take the measures they need to take. Frankly, you could argue it's too late. Congress must act on the various measures under consideration in the house and Cincinnati to rein in the excesses of the mortgage industry, because the market has proven itself to be greedy and unreliable in protecting the assets of its investors and willing to destroy cities like Cleveland. Act now.

[The prepared statement of Mr. Rokakis follows:]

TESTIMONY OF CUYAHOGA COUNTY

TREASURER JAMES ROKAKIS

BEFORE THE DOMESTIC POLICY

SUBCOMMITTEE

OF THE OVERSIGHT AND GOVERNMENT

REFORM COMMITTEE.

CLEVELAND, OHIO

MAY 21, 2007

THANK YOU, MR. CHAIRMAN AND MEMBERS OF THIS COMMITTEE FOR ALLOWING ME THE OPPORTUNITY TO SPEAK HERE TODAY.

THE CRISIS OF FORECLOSURES AND THE MELT-DOWN IN THE SUBPRIME LENDING MARKET HAS DOMINATED THE NEWS THE PAST SIX MONTHS BUT IS A PROBLEM WE HAVE BEEN STRUGGLING WITH IN NORTHEAST OHIO, AND CLEVELAND IN PARTICULAR, SINCE THE MID 1990'S WHEN OUR FORECLOSURE RATE TOOK OFF HERE. FROM A LOW OF 3,500 PRIVATE MORTGAGE FORECLOSURES IN 1995, OUR FORECLOSURE RATE CLIMBED STEADILY IN THE 90'S TO OVER 7,000 FORECLOSURES FILED BY 2000. UNDOUBTEDLY, A WEAK ECONOMY PLAYED A ROLE IN THE DOUBLING OF THE FORECLOSURE RATE, BUT OTHER FORECES WERE AT WORK. THE DEVELOPMENT OF THE SECONDARY MORTGAGE MARKET AND GREATER ACCESS TO CAPITAL MARKETS HAD CREATED AN INSATIABLE DEMAND FOR

MORTGAGES AND AN INCREASE IN RECKLESS LENDING PRACTICES. LOCAL GOVERNMENTS STRUGGLINGTO DEAL WITH THIS EXPLOSION CRIED OUT FOR HELP. IN MARCH OF 2001 MY OFFICE CO-HOSTED, ALONG WITH CSU SCHOOL OF URBAN AFFAIRS, A CONFERENCE AT THE CLEVELAND FEDERAL RESERVE BANK ON THE TOPIC OF FORECLOSURES. IN 2002 THREE OHIO CITIES – CLEVELAND, TOLEDO AND DAYTON – PASSED ANTI-PREDATORY LENDING ORDINANCES IN AN ATTEMPT TO FILL THE VOID CREATED BY AN OBLIVIOUS STATE GOVERNMENT AND A FEDERAL RESERVE THAT FAILED TO RECOGNIZE THE CRISIS. THESE LOCAL LAWS WERE PRE-EMPTED BY STATE LAWS PASSED BY THE OHIO LEGISLATURE WITHIN 60 DAYS OF THEIR PASSAGE.

AN EMBOLDENED INDUSTRY BECAME EVEN GREEDIER AND MORE RECKLESS – AND OUR FORECLOSURE RATE CONTINUED TO CLIMB TO OVER 13,000 PRIVATE MORTGAGE FORECLOSURES FILED LAST YEAR AND SADLY – WE PREDICT BASED ON FIRST

QUARTER FILINGS IN 2007 – TO OVER 16,000 FORECLOSURES THIS YEAR – THE EQUIVALENT OF FORECLOSING ON EVERY OWNER OCCUPIED UNIT IN THE CITIES OF GARFIELD HEIGHTS, MIDDLEBURG HEIGHTS AND OLMSTED FALLS.

THE FEDERAL RESERVE BANK HAS THE AUTHORITY UNDER THE TRUTH IN LENDING ACT AND THE HOME OWNERSHIP PROTECTION ACT TO BAN ALL OF THE PRACTICIES THAT HAVE FED THIS MORTGAGE CRAZE AND LED TO THIS FORECLOSURE FRENZY. THEY CAN BAN NO DOCUMENT LOANS – BUT HAVE NOT. THEY CAN BAN LOANS THAT ARE NOT FULLY INDEXED TO A BORROWER'S INCOME BUT HAVE NOT. THEY CAN BAN THE PRACTICE KNOWN AS RISK LAYERING – WHERE BORROWERS WITH THE WEAKEST CREDIT ARE OFFERED MULTIPLE 'GIMMICKS' TO QUALIFY THEM FOR A LOAN – BUT THEY HAVE NOT. THEY CAN REQUIRE THAT ALL SUBPRIME LOANS PROVIDE FOR THE ESCROW OF TAXES AND INSURANCE IN THEIR PAYMENTS BUT THEY DO NOT.

THEY CONTINUE TO HIDE BEHIND THE NEED TO PROTECT THE SUBPRIME INDUSTRY BUT THIS ARGUMENT FAILS TO RECOGNIZE THAT ALMOST 90% OF SUBPRIME LOANS ARE REFINANCES – AND NEARLY ALL OF THOSE ARE ADJUSTABLE RATE MORTGAGES THAT WILL, WITH A CONSIDERABLE DEGREE OF CERTAINTY, DOUBLE THE PAYMENT WITHIN 5 YEARS – AND COST THAT BORROWER THEIR HOME. I AM STUNNED AT THE NUMBER OF ELDERLY HOMEOWNERS WHO HAVE REFINANCED THEIR HOMES LATE IN LIFE – STRIPPING THEIR EQUITY OUT OF THE PROPERTY AND SADDLING THEM WITH A DEBT LEVEL THEY CANNOT AFFORD. IN 1983, THE AVERAGE 65 YEAR OLD HOMEOWNER HAD $11,000 IN DEBT ON THEIR PRIMARY RESIDENCE. BY 2004, THAT NUMBER HAD CLIMBED TO $47,000. YESTERDAY'S NEW YORK TIMES HAD AN ARTICLE THAT ZEROED IN ON AN UNSCRUPULOUS TELEMARKETERS, PEOPLE WHO FOCUS THEIR EFFORTS ON THE ELDERLY AND TARGET THEM FOR PRODUCTS THEY DON'T NEED AND CAN ILL

AFFORD. THIS PRACTICE HAS BEEN GOING ON IN THE MORTGAGE REFINANCE BUSINESS FOR YEARS – WE SEE EVIDENCE OF IT ON PEOPLE WHO HAVE BEEN REFINANCED AND PROMISED THAT THEIR PROPERTY TAXES WERE PART OF THEIR MONTHLY PAYMENT ONLY TO FIND OUT THEY HAD BEEN LIED TO AND THEY FOUND THEIR NAMES IN THE NEWSPAPER BECAUSE THEY HAD FAILED TO PAY THEIR PROPERTY TAXES.

LAST WEEK, FEDERAL RESERVE CHAIRMAN BEN BENARKE SPOKE TO AN AUDIENCE IN CHICAGO ON THE TOPIC OF THE SUBPRIME MORTGAGE MARKET. HE SPOKE OF A FORECLOSURE AND/OR DELINQUENCY RATES OF MORE THAN 60 DAYS AS APPROACHING 11% IN THE SUBPRIME MARKET. I WISH THAT WERE THE CASE IN CLEVELAND. IN JANUARY, LARRY LITTON, CEO OF LITTON LOAN SERVICING, SHARED HIS CLEVELAND NUMBERS WITH ME. 11.41% ALREADLY FORECLOSED IN THEIR PORTFOLIO, 16% IN FORECLOSURE FOR A TOTAL OF 27.41%. IF YOU ADD THEIR LOANS THAT WERE 30

DAYS LATE, WHICH WERE ANOTHER 18.5%, A STUNNING 46% OF THEIR LOANS IN CLEVELAND WERE UNDER WATER OR SINKING FAST. 46%!

LET ME READ FROM CHAIRMAN BENARKE'S CONCLUSION IN CHICAGO LAST WEEK: "MARKETS CAN OVERSHOOT, BUT, ULTIMATELY, MARKET FORCES ALSO WORK TO REIN IN EXCESSES. FOR SOME, THE SELF CORRECTING PULL BACK MAY SEEM TOO LATE AND TOO SEVERE. BUT I BELIEVE IN THE LONG RUN MARKETS ARE BETTER THAN REGULATORS AT ALLOCATING CREDIT. WE MUST BE CAREFUL NOT TO SUPPRESS RESPONSIBLE LENDING OR ELIMINATE REFINANCING OPPORTUNITIES FOR SUBPRIME BORROWERS." IN THE MID 1970'S, NEW YORK CITY WAS FACING BANKRUPTCY AND LOOKED TO THE FEDERAL GOVERNMENT FOR A BAIL OUT. GERALD FORD WAS PRESIDENT AND SAID NO. NEW YORK DAILY NEWS HEADLINE READ FORD TO NYC: DROP DEAD. THE POSITION OF THE FED ON THIS ISSUE – THEIR FAILURE TO REGULATE THEIR UNWILLINGNESS TO RECOGNIZE

THE SEVERITY OF THIS CRISIS SHOULD ELICIT A NEW HEADLINE: FED TO CLEVELAND: DROP DEAD! FED TO DAYTON, TOLEDO, DETROIT, BUFFALO, CINCINNATI: DROP DEAD!

MEMBERS OF THIS COMMITTEE, I DON'T BELIEVE THE FEDERAL RESERVE BANK WILL TAKE THE MEASURES THEY NEED TO TAKE – FRANKLY, YOU COULD ARGUE IT'S TOO LATE. CONGRESS MUST ACT ON THE VARIOUS MEASURES UNDER CONSIDERATION IN THE HOUSE AND THE SENATE TO REIN IN THE EXCESSES OF THE MORTGAGE INDUSTRY, BECAUSE THE MARKET HAS PROVEN ITSELF TO BE GREEDY, UNRELIABLE IN PROTECTING THE ASSETS OF ITS INVESTORS, AND WILLING TO DESTROY CITIES LIKE CLEVELAND. ACT NOW.

Mr. KUCINICH. Thank you very much, Mr. Rokakis.

Next we're going to hear from Ms. Barbara Anderson. You may proceed.

STATEMENT OF BARBARA ANDERSON, TREASURER, EMPOWERING & STRENGTHENING OHIO'S PEOPLE

Ms. ANDERSON. Thank you, Mr. Chairman, and certainly, thank you, Mr. Issa, and members and representatives of this committee.

Good morning, my name is Barbara Anderson, and I appear before you today as the treasurer and member of the Predatory Lending Action Committee of the Empowering and Strengthening Ohio's People [ESOP]. ESOP was formerly known as the East Side Organizing Project.

ESOP is a community organization whose roots are in the southeast side of Cleveland, OH, but whose growth has been fueled by abusive lending and now includes the entire northeast Ohio region, as ESOP's work is widely recognized and requested.

I also serve as the treasurer of the Empowerment Center of Greater Cleveland, president of the Bring Back the 70's Street Club. I'm the past president of Community Assessment and Treatment Services and serve on the boards of the Ohio State University Extension Program, Vision Advocacy Council of MetroHealth Center for Community Health and Co-chair of MetroHealth Center for Community Health and Co-chair of the Slavic Village Development Abandoned and Vacant Housing Committee.

I could give you documentation regarding the devastating impact of predatory lending and foreclosure, however, that's included in my full statement. I'm a survivor of personal predatory lending in the past. I am yet a victim of predatory lending as is my entire neighborhood.

I have lived at 3435 East 76th Street for over 25 years. That address is in the Slavic Village neighborhood. That is today widely seen as the epicenter of the foreclosure crisis facing Cleveland and the Nation.

I want to thank you, Mr. Kucinich, for holding this hearing as the city of Cleveland is now experiencing a crisis as a result of years of neglect by local banks and regulators. Without question, cities like Cleveland were ripe for the picking. The steel industry was leaving, their secondary industries went belly up and we continue to have brain drain. While these facts are staggering, what I see in my neighborhood is even more tragic.

There are ten houses on my street. Five of them are currently vacant, and in most cases are owned by a lender who made an abusive loan that the homeowner could not afford. My street is not unusual. You can walk up and down virtually any street in my neighborhood, as you did yesterday, Mr. Kucinich, and you will find a similar situation.

In our street club's targeted area, which includes the streets from East 70th to East 78th, south to Edna Avenue and north of Morgan, there are over 100 vacant, abandoned or condemned homes. Obviously, this scenery has reduced the value of my own home. While that is devastating by itself, what is most devastating is that I cannot allow my grandchildren to play outside because of squatters, usually high on drugs, are now occupying some of those houses as they sit wide open.

Today organizations like ESOP are fighting an uphill battle to clean up these costly measures. We have written agreements with about a dozen lenders and services that allow us to serve as the middle person between the homeowner and lender in order to help negotiate a workout to their problem loan.

This year ESOP is projected to assist about several hundred families get out of foreclosure. While we are proud of our efforts, Cuyahoga is expected to see upwards of 15,000 foreclosures in 2001. While some of these foreclosures are due to unforeseen, economic hardships, the vast majority are the results of abusive lending. I take this personally. Irresponsible lenders preying on unsophisticated borrowers is a match made in financial hell. It is the residents that are left behind that must shoulder the burden of the potential health, crime and nuisance of these properties.

Once left vacant, they become an eyesore. No one comes to clean or to maintain the property. It is simply left alone and continues its almost certain decline. The banks and the lobbiests will tell you that the problem is a lack of financial education on the part of the consumer. While, actually, it's a lack of accountability by the lender and greed to increase revenue on the backs of those that can least afford and have very few options.

ESOP sees this hearing as an important first step to changing the job description of the regulators, and I wish to conclude by thanking you again, Congressman Kucinich, for your leadership on this issue and would be happy to take any questions.

[The prepared statement of Ms. Anderson follows:]

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ESOP

Empowering & Strengthening Ohio's People

a member of SHARES

Testimony of Barbara Anderson
Treasurer, Empowering & Strengthening Ohio's People;
Predatory Lending Action Committee Member

Provided to the Subcommittee on Domestic Policy, Committee on Oversight and Government Reform

May 21, 2007

Good morning. My name is Barbara Anderson. I appear before you today as the Treasurer and member of the Predatory Lending Action Committee of the Empowering & Strengthening Ohio's People (ESOP), a community organization whose roots are in the southeast side of Cleveland, Ohio but whose growth has been fueled by abusive lending and now includes the entire Northeastern Ohio region as ESOP's work is widely recognized and requested.

I also serve as Treasurer of the Empowerment Center of Greater Cleveland, President of the Bring Back the 70's Street Club, I'm the Past President of Community Assessment and Treatment Services, and serve on the boards of Ohio State University Extension Program, Vision Advocacy Council of MetroHealth Center for Community Health, and Co-Chair the Slavic Village Development Abandoned and Vacant Housing Committee.

I have lived at 3435 E. 76th St. for nearly thirty years. That address is in the Slavic Village neighborhood that is, today, widely seen as the epicenter of the foreclosure crisis facing Cleveland and the nation.

I want to thank Congressman Dennis Kucinich for holding this hearing as the city of Cleveland is now experiencing a crisis as a result of years of neglect by local banks and regulators.

Without question, cities like Cleveland were "ripe for the picking". The steel industry was leaving, their secondary industries went belly up and we continue to have a brain drain. Indeed, the banking industry would like you to believe they pulled out of the Cleveland communities because of the economy.

Ladies and Gentlemen, they pulled out because they could make MORE money vis a vis their sub-prime affiliates. And make no mistake: THEY DID. Consider National City Bank whose headquarters is in Cleveland. Until very recently, National City Bank owned First Franklin Financial. I encourage you to read the Plain Dealer article that was published on March 15, 2007 (http://www.cleveland.com/business/plaindealer/index.ssf?/base/business/117394899598200.xml&coll=2) where NCB has put $50 million in reserves because it foolishly invested in First Franklin Financial but now has to foot the bill for that company's abusive practices as they are stuck with those loans.

National City (NCB) is not alone. Consider Key Bank who also sensed the party is over when they sold their sub-prime affiliate, Champion Mortgage, late last year.

Had NCB, Key and many of Cleveland's other banks not chosen to cut off lending in low to moderate income communities over the last ten years, we would not be here today. Of course, had the banking regulators done their job, we wouldn't be here either. Instead, the banks and regulators are all standing around scratching their head about how we got into this situation.

I have lived in Cleveland neighborhoods all my life. I remember going with my parents to banks that were just around the corner or down the street. One by one, however, they disappeared.

As they left, others set up shop. A visit to the corner of East 93rd St. and Union, about fifteen blocks from where I live, makes my point. Twenty years ago, that intersection had three bank branches. Today, it has three check cashing/payday lending stores. My neighborhood does not have ONE bank in our community. How can anyone say that the regulators did their job to protect my community? Is it any wonder why and how the sub-prime lending industry came into Cleveland?

The sub-prime industry will tell you that they acted based on the economics of supply and demand. That is probably the only thing they and I agree on. The fact is, as the banks abandoned low to moderate income neighborhoods, the sub-prime industry moved in and moved in fast.

For example, in 2002, Argent Mortgage Company (the wholesale lending arm of ACC Holdings which also owns Ameriquest Mortgage Company) had no presence in the city of Cleveland. Since 2003, however, despite only offering a sub-prime loan product, they have been the largest lender in Cleveland. I guess we are supposed to believe that, almost overnight, the credit rating of Cleveland residents tanked and they no longer qualified for a prime rate mortgage.

I would suggest to you that Argent's surge in Cleveland is the result of years of local banks turning their back on low to moderate income, often minority, residents.

I want to spend a few minutes and give you a sense of just how devastating the last decade has been due to the regulators abdicating their responsibility and abusive lenders entering the market place. The following statistics were put together by Paul Bellamy, a fair housing expert in Cleveland. They paint a very grim picture. Consider:

- Ohio's foreclosure rate is three times the national average and the highest of all states.[1]

- Data from 12 of the 13 largest Ohio counties indicate that 2006 foreclosure filings increased by an estimated 25 percent over 2005, with an estimated 80,000 foreclosure filings.[2]

- The volume of foreclosures is expected to grow much faster in 2007 and 2008 because of the number of subprime ARM loans that will be reset at much higher rates. In 2005, subprime loans accounted for about 13 percent of the mortgages issued nationally, compared to almost 28 percent (more than double) of the mortgages issued in Ohio. Subprime loans account for 18 percent of all outstanding Ohio mortgages currently held by the secondary market and other loan servicers. Despite representing less than one of five outstanding mortgages, subprime loans account for 70 percent of all foreclosures.[3]

- The most common type of Ohio subprime mortgage is a "2/28" loan. These loans are sold with low initial "teaser rates" that are fixed for the first two years. Beginning in year three, the interest rate increases as often as every six months, so the monthly payment grows dramatically. Often, these loans are not underwritten to anticipate the inevitable rate escalation. In 2007 and 2008, roughly $14 *billion* of these 2/28 subprime loans are going to reset in Ohio, impacting some 150,000 to 200,000 mortgages.[4]

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[1] *Mortgage Bankers Association, National Delinquency Survey, Third Quarter 2006*

[2] *Data for the last 10 years was originally obtained from the Ohio Supreme Court and are republished in Policy Matters Ohio reports over the past several years. See:* http://www.policymattersohio.org/Foreclosure_Growth_2006.htm

[3] *The Subprime Market's Rough Road," Wall Street Journal, 2/17/07.*

Home Mortgage Disclosure Act data - Reported subprime loans (generally considered an undercount) show that subprime increased from 16% of Ohio's mortgages in 2004, to just over 28% of the Ohio loan market in 2005.

Mortgage Bankers Association, National Delinquency Survey, Third Quarter 2006 (most recent available).

[4] *"Losing Ground: Foreclosures in the Subprime Market and Their Cost to Homeowners," The Center for Responsible Lending, December 19, 2006. Figures from databases maintained by lending industry trade groups actually suggest that over $20 billion 2-28 subprime loans will reset in Ohio during 2007 and 2008.*

- Many borrowers with 2/28s and other ARMs can't refinance or sell to avoid default because their property is not worth what is owed. All too often, their original mortgage was based on an inflated appraisal. In 2006, six of Ohio's eight major metropolitan areas experienced depreciating real estate values between 3.5 and 7.7 percent - well above the US average of 2.7 percent.[5]

While the above numbers are staggering, what I see in my neighborhood is even more tragic. There are ten houses on my street. Five of them are currently vacant and, in most cases, are owned by the lender who made an abusive loan that the homeowner could not afford. My street is not unusual. You can walk up and down virtually any street in my neighborhood and you will find a similar situation.

Obviously, the vacant houses have reduced the value of my home. While that is devastating by itself, what is more devastating is that I can't allow my grandchildren to play outside because squatters, usually high on drugs, are now occupying some of these homes as they sit wide open.

Today, organizations like ESOP are fighting an uphill battle to clean up their mess. We have written agreements with about a dozen lenders and servicers that allow us to serve as the middleperson between the homeowner and lender in order to help negotiate a workout to their problem loan. This year, ESOP is projected to assist about 700 families get out of foreclosure. While we are proud

[5] *First two sentences are based on reports of staff of foreclosure prevention projects around the state. Third sentence is from "National housing market declines," Cleveland Plain Dealer, 2/16/07 based on home price data for 2006 from the National Association of Realtors.*

of our efforts, Cuyahoga County is expected to see upwards of 15,000 foreclosures in 2007.

While some of these foreclosures are due to unforeseen economic hardships, the vast majority are the result of abusive lending. I am not saying that the regulated banks made these loans (though they did in many cases that ESOP sees). What I am saying, however, is that because the regulated banks were not adequately monitored by the regulators and held accountable to meet the credit needs of the entire community, they created a vacuum that allowed the unregulated lenders to penetrate my community.

The banks and their lobbyists will tell you that the problem is a lack of financial education on the part of the consumer. While ESOP believes financial literacy is an important part of the foreclosure puzzle, it is not enough. Most of the people that come to ESOP already know they took out a bad loan. They didn't take it out because they are uneducated. They took it out because the regulated banks weren't making loans in our community.

The banks and regulators will likely tell you that they have done their job. Ladies and gentlemen, if that is true, they should be fired.

ESOP sees this hearing as an important first step to changing the job description of the regulators and I wish to conclude by thanking Congressman Kucinich's leadership on this issue and would be happy to take any questions.

Mr. KUCINICH. Thank you very much for your testimony, Ms. Anderson. Mr. Bromley.

STATEMENT OF CHARLES BROMLEY, ADJUNCT FACULTY, LEVIN COLLEGE OF URBAN AFFAIRS

Mr. BROMLEY. My name is Charles Bromley. I've had an extensive, professional career including advocacy, research, and organizing on the issue of fair lending, and I'm presently serving as adjunct faculty at the Levin College of Urban Affairs, and I hope to contribute to the knowledge and academic role of regarding urban diversity and creating learning opportunities for those of us who seek a stronger and more vital community. Several weeks ago, the Ohio Fair Lending Coalition brought a challenge regarding the merger of the Huntington and Sky Banks, both Ohio lenders. The community awaits a response to challenge the Federal Reserve Bank, with a significant physical presence in Cleveland, housed on two city blocks in the heart of Cleveland's financial district is reviewing the challenge. The Federal Reserve Bank, is a formidable national historic landmark with an impressive pink and sienna marble facade within its hollowed walls has a 100-ton vault door, the largest in the world, which protects the massive bank vault.

Cleveland is fortunate to have one of the regional Federal Reserve Banks. Unfortunately, the political presence of the Federal Reserve Bank has not matched its physical presence in tackling the persistent problems of discrimination and lending, and the most recent crisis is predatory lending that has affected every community in Cuyahoga County. The rich history of the Federal Reserve Bank and the Renaissance architecture remind life-long Clevelanders of one of its many jewels.

In 1973, having graduated from the Levin College of Urban Affairs with a masters degree and working with the Cleveland Heights Community Congress, I embarked on a community research project with the League of Women Voters Community. We documented, by hand, and tracked and compared disparate lending patterns that exist between the city of Lakewood and the city of Cleveland Heights.

Our research findings were substantial, and we submitted our study results to the Senate Banking Committee chaired by William Proxmire. Other researchers and community-minded individuals submitted similar study results, which led to the passage of the Home Mortgage Disclosure Act of 1975 and ultimately the Community Reinvestment Act of 1977.

The Ohio Fair Lending Coalition filed the action against Huntington/Sky Bank's merger and many colleagues said to us, why bother? The Federal Reserve Bank will do anything for the community. We reminded them that following the passage of the 14th amendment after the Civil War, it took our country until 1954, in the Brown decision, to recognize the importance of the equal protection clause. Similar issues and obstacles presented themselves relative to the Home Mortgage Disclosure Act and the Community Reinvestment Act. Now, these acts represent important tools for our communities and cannot be dismissed as unimportant.

HMDA data that was once transparent has been transformed into an online nightmare that no individual citizen can easily comprehend. It's imperative that the Federal Reserve Bank make this data transparent and easily available to community groups who would use this data.

The Federal Reserve Bank has only conducted one study in 1992, conducted by the Federal Reserve Bank of Boston, to examine the relationship between race and credit scores. It is time for the Federal Reserve Bank of Cleveland to undertake such a study and determine what role race plays in the declination of prime credit. They have the resources, the knowledge and data to carry this out expeditiously.

It has been over 30 years since the Federal Reserve Bank held a public hearing in Cleveland. The wealth-robbing activities of lenders has exacerbated predatory lending problems in communities, not only in historically underserved city neighborhoods, but in encroaching first-ring suburbs, which leaves a trail of impoverishment and debt.

During the years since the last public hearing, Greater Cleveland has been devastated by high-cost loans and predatory lending. At each hearing on proposed legislation to curb the effects of predatory loans at the State level, and the multitudes of meetings that occurred in Greater Cleveland, the important leadership of the Federal Reserve Bank has been missing.

The President of the Federal Reserve Bank of Cleveland has been absent from all public discourse on this issue. At the hearings on anti-predatory lending law in Columbus, OH, at the countless summits on predatory lending, and the numerous meetings leading up to creation of the Cuyahoga County Foreclosure Prevention Program, the highest office of the Federal Reserve Bank was absent. It is significant that in the 2006 Annual Report, the current president of the Federal Reserve Bank of Cleveland highlighted the immense cost that concentrated poverty has placed on this community.

There is little doubt that predatory lending has put at risk billions of dollars of real estate for Greater Clevelanders.

For more than a decade many civil rights advocates pressed for changes in lending practices that would have been an antidote to the explosion of predatory lending. The Metropolitan Strategy Group, a nonprofit which I led, documented this and presented this information.

A proposed statement on subprime lending. For the last decade, the Federal Reserve Bank in Cleveland has not been at home. The private dining rooms of the Federal Reserve Bank have been filled with lenders while the community has been outside, looking in, trying to determine if someone will open the door to hear from those among us who have been devastated in the community. The litany of abuse is well documented.

First and foremost, there must be a discussion of no document loans or liar loans. The Federal Reserve Bank regulators had a moral and legal responsibility to stop this behavior the second that these indiscretions were documented, along with other loan products that damage communities, and they should not have waited until, "a crisis in mortgage markets." It's well known that the Federal Reserve Bank holds the highest regard for its examiners who review safety and soundness.

These values are represented for all to see with two larger-than-life statues, one entitled Security and the other entitled Integrity. Sculpted in New York City, they guard the main entrance of the Federal Reserve Bank on East 6th and Superior. These statues are a symbol of trust that the community instills in the Federal Reserve Bank.

One commentator, Eddy Ross, said recently in the Dayton Daily News, these agencies, bank regulatory agencies, have enormous power, direct and indirect, over the financial services market. They could set the tone. By aggressively and creatively pushing lending institutions to offer credit in lower and middle-income communities—including by enforcing the Community Redevelopment Act—they could have given consumers a reasonable alternative to the predators by beefing up the Home Mortgage Disclosure Act, regulators, could have given policymakers and police agencies real-time data about who was making predatory loans and where and what actions could be taken.

It's time to revive an honest debate about these issues as the Greater Cleveland community attempts to resurrect its housing market and its financial institutions. The mighty facade of the Federal Reserve Bank needs to be matched with a new political will to take on difficult issues related to disinvestment and predatory lending in Cuyahoga County. It's time to knock on the door and find out that somebody is home and that public hearings will occur. Thirty years is too long to wait. It is now time to act.

William Proxmire was fond of saying about lenders, he said, the former chairman said, I asked myself how is it that so many neighborhoods are continuing to fail while so many lending institutions are continuing to pass. I hope that we can move ahead and have a hearing in Cleveland and get the truth out about lending.

[The prepared statement of Mr. Bromley follows:]

STATEMENT

Of

Charles H. Bromley

On

The Federal Reserve Bank- Not at Home

May 21, 2007

Congressman Dennis Kucinich, Chairman of the Domestic Policy Subcommittee of the House Committee on Oversight and Government Reform

My name is Charles Bromley My extensive professional career has included advocacy, research, community organizing, local, state and national work on fair housing, leadership of the first agency to document the relationship between foreclosures and predatory lending, and leadership in documenting unfair lending practices and their impact on Greater Cleveland neighborhoods. Currently, as adjunct faculty at the Levin College of Urban Affairs, a Presidential Scholar in the SAGES Program at Case Western Reserve University, and the Chair of the Ohio Fair Lending Coalition, I contribute knowledge in the academic world regarding urban diversity and create learning opportunities for those who seek a stronger, more vital community.

Several weeks ago, the Ohio Fair Lending Coalition brought a challenge forward regarding the merger of Huntington and Sky Banks, both Ohio lenders. The community awaits a response to this challenge. The Federal Reserve Bank, with a significant physical presence in Cleveland-housed on two city blocks in the heart of Cleveland's financial district, is reviewing the challenge. The Federal Reserve Bank is a formidable national historic landmark, with an impressive pink Sienna marble façade and within its hallowed walls is the original 100 ton vault door, the largest in the world, which protects the massive bank vault. Cleveland is fortunate to have one of the regional Federal Reserve Banks. Unfortunately, the political presence of the Federal Reserve Bank has not matched its physical presence in tackling the persistent problems of discrimination in lending, and the most recent crisis in predatory lending that has affected every community in Cuyahoga County. The rich history of the Federal Reserve Bank and the Renaissance architecture remind life long Clevelanders of one of its many jewels.

In 1973, having just graduated from the Levin College of Urban Affairs with a masters degree and working for the Heights Community Congress, I embarked on a community research project with the Cleveland Heights-University Heights League of Women Voters. Our effort involved collecting data, which we documented by hand to track and compare disparate lending patterns that existed between the City of Lakewood and the City of Cleveland Heights. Our research findings were substantial and we submitted our study results to the Senate Banking Committee, chaired by William Proxmire (D-Wisconsin). Other researchers and community minded individuals submitted similar study results, which lead to the passage of the Home Mortgage Disclosure Act of 1975, and ultimately, the Community Reinvestment Act of 1977. Voices from concerned communities throughout the United States were strong and they were heard.

When The Ohio Fair Lending Coalition filed the action against the Huntington-Sky Banks merger, many colleagues said to us, "Why bother? The Federal Reserve Bank will not do anything for the community." We reminded them that following the passage of the Fourteenth Amendment, after the Civil War, it took our country until 1954 to recognize the importance of the equal protection clause. Similar issues and obstacles presented themselves relative to the Home Mortgage Disclosure Act and the Community Reinvestment Act. Now, these Acts represent important tools for our communities and cannot be dismissed as unimportant.

HMDA data that was once transparent has been transferred into an online nightmare that no individual citizen can easily comprehend. It is imperative that the Federal Reserve Bank make this data transparent and easily available to community groups who would use this data. The Federal Reserve Bank has only conducted one study in 1992, conducted by the Federal Reserve Bank of Boston, to examine the relationship between race and credit scores. It is time for the Federal Reserve Bank of Cleveland to undertake such a study and determine what role race plays in the declination of prime credit. They have the resources, knowledge, and data to carry this out expeditiously.

It has been over 30 years since the Federal Reserve Bank held a public hearing in Cleveland. The wealth robbing activities of lenders has exacerbated predatory lending problems in communities, not only historically underserved city neighborhoods, but encroaching first ring suburbs, which leaves a trail of impoverishment and debt. During the years since the last public hearing, Greater Cleveland has been devastated by high cost loans and predatory lending. At each hearing on proposed legislation to curb the effects of predatory loans at the state level, and the multitudes of meetings that occurred in Greater Cleveland, the important leadership of the Federal Reserve Bank has been missing. The president of the Federal Reserve Bank of Cleveland has been absent from all public discourse on this issue. At the hearings on anti predatory lending law in Columbus, Ohio, at the countless summits on predatory lending, and the numerous meetings leading up to creation of the Cuyahoga County Foreclosure Prevention Program, the highest office of the Federal Reserve Bank was absent. It is significant that in the 2006 Annual Report, the current president of the Federal Reserve Bank of Cleveland highlighted the immense cost that concentrated poverty has placed on this community. There is little doubt that predatory lending has put at risk billions of dollars of real estate equity (wealth) for Greater Clevelanders.

For more than a decade, many Civil Rights Advocates pressed for changes in lending practices that would have been an antidote to the explosion of predatory lending. The Metropolitan Strategy Group, a nonprofit which I led, documented problems with subprime refinancing in minority neighborhoods. The explosion of foreclosures that we currently see in Greater Cleveland had its genesis with a Federal Reserve Bank that was unwilling and unable to lead the fight against predatory lending. It is only now that the Federal Reserve Bank is issuing "a proposed statement on subprime mortgage lending." For the last decade, the Federal Reserve Bank in Cleveland, has not been at home. The private dining rooms of the Federal Reserve Bank have been filled with lenders while the community has been outside, looking in, trying to determine if someone will open the door to hear from those among us who have been devastated in the community. The litany of abuse is well documented.

First and foremost, there must be a discussion of no document loans or liar loans. The Federal Reserve Bank regulators had a moral and legal responsibility to stop this behavior the second that these indiscretions were documented, along with other loan products that damaged communities, and they should not have waited until the "crisis in mortgage markets." It is well known that the Federal Reserve Bank holds in highest regard bank examiners who review safety and soundness of lenders.

These values are represented for all to see with two larger-than-life statues-one entitled Security and the other Integrity, sculpted by Henry Hering of New York City, which guard the main entrance of the Federal Reserve Bank on East 6th Street in downtown Cleveland. These statues are symbols of trust that the community instills in the Federal Reserve Bank of Cleveland. Currently, the debate in the media continues. One commentator, Eddie Roth, editorial writer of the Dayton Daily News has written over seventy editorials on the subject.

In Eddie Roth's recent editorial in the Dayton Daily News, he wrote, "These agencies [Bank Regulatory Agencies] have enormous power — direct and indirect — over the financial services market. They could set the tone. By aggressively and creatively pushing lending institutions to offer credit in the lower- and middle-income communities (including by enforcing the Community Redevelopment Act), they could have given consumers a reasonable alternative to the predators. By beefing up the Home Mortgage Disclosure Act, regulators could have given policymakers and police agencies real-time data about who was making predatory loans and where — so action could be taken before it was too late. But the regulators did little. What little they did, they took their time doing. Some high officials wrung their hands and made lofty speeches."

It is time to revive an honest debate about these issues as the Greater Cleveland community attempts to resurrect its housing market and its financial institutions. The mighty façade of the Federal Reserve Bank needs to be matched with a new political will to take on difficult issues related to disinvestment and predatory lending in Cuyahoga County. It is time to knock on the door and find out that somebody is home and that public hearings will occur. Thirty years is a long time and the public debate and open hearings are long overdue.

While Ohio has been subject to significant national publicity regarding foreclosures and sub prime lending, regulators, such as the Federal Reserve Bank and the Office of the Controller of the Currency, have given carte blanche to bank mergers. The recently deceased Senator William Proxmire (D) Wisconsin, and former chairman, Committee on Banking, Housing, and Urban Affairs, was fond of saying, “"And I ask myself, how is it that so many neighborhoods are continuing to fail, while so many lending institutions are continuing to pass?"

I also wish to add to my statement the comments from Kathy Broka, Executive Director of the Toledo Fair Housing Center and the Northwest Ohio Development Agency (NODA), members of the Ohio Fair Lending Coalition.

As the CEO of two non-profit groups that are dedicated to helping people in our area with discrimination and lending in housing, I have been concerned with the pattern of our banks declining commitment to low to moderate income families in our community. Subprime lending grew in a natural response to this pattern. While some sup prime products allow borrowers to become homeowners who would otherwise not qualify, the lack of regulation in the industry leads to unscrupulous lending practices that drain any equity and lead to disastrous effects on the borrower and the surrounding community as well.

Analysis has been conducted in the Toledo area and the patterns of lending and foreclosures as well as other metropolitan areas in Ohio. The patterns in Toledo and Lucas County match the demographic patterns of Cleveland and Cuyahoga County.

It is discouraging to see the commercial messages that the lenders are trying hard to establish relationships with customers while we watch them abandon all efforts to reach out in any effective way to underserved areas. Into this void, payday lenders and subprime lenders confidently march with all the investment money they need to remove what small amounts of equity those citizens have managed to obtain. Often this wealth stripping leads to situations where homes are vastly over appraised and lead inexorably to a painful foreclosure.

In one instance a borrower came to with us with a first and second mortgage. The first mortgage was taken out for $93,000, a home equity loan was subsequently made for $10,000. We ordered an appraisal to get an indication of the true market value of the home. It was appraised at $69,000 (county tax record value = $66,100). In this case, a lender offered her a loan when her first loan exceeded the market value of her home by 35%. The borrower's debt to value at this point stands at 150%! This is the type of situation only a subprime, indeed only a predatory subprime lender could arrange purposefully.

The lack of any effective CRA enforcement corresponds to the absence of federal regulators that, in prior years, made regular visits to out offices to get a sense of what is happening with the regulated lending industry in our community.

Northwest Ohio Development Agency (NODA) and the Fair Housing Center strongly urge federal regulators to enforce the promise of CRA to keep prime lenders active in the entire community.

Thank you for this opportunity. I would be pleased to answer questions that members of this committee may have.

Mr. KUCINICH. Thank you very much, Mr. Bromley. We'll be moving quickly to questions of the first panel. For those who have just joined us, the definition of terms is very important here. We're talking about prime loans. We're talking about the standard loan given to a borrower with a good to excellent credit rating. Subprime loans are higher interest rates often with financial penalties and are made for people who are often deemed to be higher risk.

Also, there's evidence that this committee is looking at that African Americans are more likely to have subprime loans even if their financial information would justify a prime loan. These loans are often made by affiliates of banks specializing in subprime loans, and there are frequently abusive practices associated with these loans and including at the appraisal level or no-document loans. I just want to make sure that as we proceed here, that everyone understands the terms of the discussion.

Let's begin with questions of the first panel. Would Mr. Issa like to ask the questions first.

Mr. ISSA. I'd be glad to.

Mr. KUCINICH. Thank you. Please go ahead.

Mr. ISSA. Thank you, Mr. Chairman. This is sort of—when you see bipartisan, this is a great example of it.

Well, you covered a lot, and I appreciate you doing it. Ms. Anderson, you've been nationally—your organization has been nationally recognized for intervening in the process in order to renegotiate or to save failing loans. Could you tell us, in a sense, how many loans that you discover are savable through intervention out of the total?

In other words, we look at the failed rate in Cleveland, which you've helped reduce, but when we're looking at intervention—and to be honest, grants and funding for organizations to help with people who have gotten over their head, what percentage can you say in your experience?

Ms. ANDERSON. Well, let me answer a couple ways. First of all, it's been very successful, and one of the reasons has been because of the relationship that develops after the partnership is made.

ESOP has been able to, as I've said before, go into partnerships with the ones that we deal with such as a Litton, such as an Aquin [phonetic]. Because of that partnership and the relationship, they are more willing to negotiate or to help, not just predatory loans, but also hardship loans. And, so, yes, well over 70 percent are able to be negotiated, some kind of negotiation where it is possible to save.

Mr. ISSA. And you brought up a good point that I'd like to followup on. Because of Cleveland's economy, when you break those down, can you give us a feeling for how many, that you may recall, is the direct result of predatory lending and how many you would say are hardship? People have lost their jobs or they've lost a good-paying job, and now one or both members are working for less.

Ms. ANDERSON. I would say that the impact of losing jobs has had a devastating effect, which you well know. And if you're already in a predatory loan, even that predatory loan that you may have been able to afford while you had that good job by making other sacrifices, that once you get into a predatory loan and lose your job, then it becomes even more complicated.

There is—depending on the lender, there is a higher amount with some lenders, maybe even of 50 percent, 60 percent, are hardship loans. While some lenders, 80 and 90 percent of them are predatory lending.

Mr. ISSA. It pretty much depends on how aggressive the broker was that sold the packages?

Ms. ANDERSON. Yes, it does.

Mr. ISSA. Mr. Bromley, HB185, which has now been signed into law, how much of an effect do you believe it will have in the future, stemming future incidents the way we're seeing here?

Mr. BROMLEY. Well, I think all laws—I mean, it's like the Community Reinvestment Act. It depends upon how well it's enforced, how effectively, how comprehensively. You know, we have a State law here to prevent, you know, predatory activity. And I have found over the years that when you put a law in a book, you better be sure that you're going to enforce the law and make sure that it occurs.

We have had some wonderful things, and we documented early on in this crisis that 70 percent of the people going in foreclosures had problems with predatory characteristics in their mortgages. It was well known, well documented. There are an abundance of laws. I mean, it's a question of enforcing those laws and speaking out in a way that makes sure that these laws are effectively enforced throughout the community.

Mr. ISSA. I guess I'll switch to one of the authors of the bill. I was interested because HB185, if enforced, Mr. Rokakis, I assume you believe will dramatically reduce this.

Mr. ROKAKIS. It will. As you know though, 185 is the lame duck session between the election of the new Governor and the end of that term was, in my opinion, gutted by 117. But the damage provision was limited so substantially, that I really feel it took away from the enforceability of the strength that 185 might have had. Certainly, putting fiduciary duties on brokers and licensing, all very important, but what was so unsettling to us is that 117, we really feel gutted it, and, of course, it's in limbo now because there was that period of time this Governor vetoed this. It was a 10-day layover. They've sued it for the Ohio Supreme Court. So, it's unclear as to what 185's standards are, though the attorney general is going forward as if it's in full effect.

Mr. ISSA. And the followup, and sometimes we call this the punch, assuming that 185, if left ungutted and implemented, would have really changed the lay of the land going forward, particularly as to enforcement of mortgage brokers, lending policies, criminal sanctions and so on, assuming that's all true, then when we're weighing—I'll just be a second, Mr. Chairman. Thank you.

If we're weighing the Fed, who will be up here next, and what we expect them to do, and Ohio's effective or ineffective, but belief that they can respond, they can regulate as Federal officers, wouldn't it be reasonable to say that you should send 185 back through, put the teeth in it, enforce it and clean up the act unique to Ohio's problems so that you will not be in a catchall of what works in California being what you get told to do here in Ohio, which, by the way, as now a Californian, I know won't work. The regulatory needs are undoubtedly different here in Ohio. I don't believe you have walk-away loans. In California you can walk away from your mortgage, not go bankrupt and no one chases you. We have non-recourse loans.

And so as an Ohioan moved to California, I'll close and say, in a sense, isn't it the important thing to come out of this hearing, that if Ohio can't make 185 a proper enforcement reality, that your legislation needs to pick it back up, put teeth in it and bring it back through if Ohio's going to have a custom solution for themselves?

Mr. ROKAKIS. I agree. I think we have to partner in this. And as you know, one of the comments made by Chairman Bernanke was that unfortunately this is a patchwork quilt. So, we can't do this alone. Clearly, we can't expect the Fed to do all of this.

But, unfortunately, and I hate to be such a cynic, I've spent many an afternoon traveling to the Ohio Legislature.

The power of the mortgage broker industry, the power of the mortgage bankers, the appraisers, the people that are all integral parts of this not so pleasant situation have incredible power at that legislature, and I've watched them—and time after time—2002 is a good example. Cleveland, Dayton and Toledo said nobody is going to help us. We'll do it on our own. You know, within 60 days they preempted those three cities, they promised action, 11 meetings, 63 witnesses, no action came until 2006 only because it was an election year, then they started to gut it 3 months later. Forgive me for being a cynic, but I've spent too much time in Columbus.

Mr. ISSA. Thank you, Mr. Chairman.

Mr. KUCINICH. Thank you very much, Mr. Issa, my colleague from California. This discussion that you're having with Mr. Rokakis, since we do have a member of the legislature in the audience, State Representative Foley, and if there's any other members of the legislature in the audience, I would ask that you let the staff know, because this is certainly a discussion that is relative to your level.

We've also been joined by Congresswoman Tubbs Jones' representative, Mr. Taylor. Would you stand and be recognized. Let Congresswoman Tubbs Jones know that she has our love and support at this time. We know that she would be here except for this tragedy in her family. So, thank you, Michael Taylor, for being able to represent Congresswoman Tubbs Jones. And, finally, I want to acknowledge the presence of another mayor that's in the room, Mayor Thomas O'Grady, of North Olmsted.

I'd like to move on to questions, and I'd like to go to this question of public hearing, Mr. Bromley, that you raised. What's your understanding of the purpose of holding public hearings? And, generally speaking, I'm not talking about a specific case now with respect to merger reviews.

Mr. BROMLEY. Well, it's an opportunity. The Community Reinvestment Act has a mechanism that allows the public to comment on a proposed merger of lenders, and the public hearing is part of that process where the public, meaning individuals, community groups such as Barbara's, can comment on the impact of a merger on a community.

Mr. KUCINICH. And when was the last time a hearing was held by the Cleveland Fed.

Mr. BROMLEY. 30 years ago.

Mr. KUCINICH. How would you explain that 30 years have passed without a public hearing.

Mr. BROMLEY. I think that this Federal Reserve Bank decided after one hearing that they were never going to have another hearing in Greater Cleveland, that it was unfortunate, and that the weight, as Jim has indicated, the weight of the lenders weighed in and said we are not going to have any more public exposure to these kind of issues. And the result has been 30 years of silence in the public square, and the public square needs to have a vigorous dialog in the Democratic institution.

Mr. KUCINICH. Mr. Rokakis, you quoted from Chairman Bernanke, and, of course, you're aware that last week he promised that the Fed is going to do all, "We'll do all we can to prevent fraud and abusive lending and to ensure that lenders employ sound underwriting practices."

Now, preventing a reoccurrence of the problem is very important, but what efforts should be made and what role will the Fed play in solving the problem of foreclosures for existing homeowners.

Mr. ROKAKIS. Mr. Chairman, I also read their statements urging banks and mortgage companies throughout the company to cooperate in workout efforts. I'm a part of the Governor's task force that's putting together a State-wide network to help try to work through this foreclosure morass. As you know, September of this year and next year we're going to see an explosion of these subprime ARMS resetting, about $20 billion worth in this State. So, we're going to see more foreclosures than we've already seen, which is hard to believe.

But I think what's important is that we must find a way, the Fed, the Congress, we have to bring these lenders to the table early. They say they want to work out these loans, and I know they have with ESOP and we have a foreclosure effort here, but until, as an industry, they set up practices that offer uniform solutions, it's going to be a one by one by one by one hand-to-hand combat on renegotiating millions of mortgages.

Mr. KUCINICH. Well, since you're on the Governor's task force, of course, you know the stock market has taken a notice of the rising in cost in subprime loans has helped to reduce the amount of capital available for future predatory lending.

Of all the conferences and guidance from the Fed, can you point to anything that the Fed has done to prevent the bad loans from being made? Are you aware of any?

Mr. ROKAKIS. No. Other than the statement of those last week urging the banks to cooperate on workout efforts, but it was nothing more than an invitation to do so.

Mr. KUCINICH. Mr. Bromley, are you aware of any of this.

Mr. BROMLEY. I'm not aware of any, and at this level of the crisis—that's the point about the Cleveland Fed. The Cleveland Fed is very aware of what's been going on in Ohio and specifically here in Greater Cleveland. I think they have played a very important role in lifting this issue up.

Mr. KUCINICH. Thank you. I'd like to ask Ms. Anderson, because you're working at the community level, tell this committee about the impact of people in the neighborhood where you have all these homes boarded up—and you're still living there and you have a home there.

Ms. ANDERSON. That's right.

Mr. KUCINICH. I talked to some people yesterday, but I'd like you to tell the committee, how does this affect people. People put time and effort into their property to try to keep it up, and, all of a sudden, a house gets boarded on the street.

Ms. ANDERSON. It's not just devastating to just the people who live there, but especially to the children. I mean, you play with these people, you work with people, you talk with people. They become your neighbors, and then, all of a sudden, in the middle of the night they're gone, and several days later the house is boarded up, trash is sitting outside and it's not as though it's moved. This is your window every day, is that you go out to see these vacant, abandoned, boarded-off homes that just devastates the entire community. It's heart breaking. It's an uphill battle.

We have had many community groups go door to door to try to make a difference with our painting on the houses, as you saw yesterday, Mr. Kucinich. We have people there now who are cleaning up the property, who are sweeping. We have people from Habitat who volunteered their time today who are doing that. It is a never-ending battle. You can only clean up so much. It's like trying to clean up America and all you have is a staff of four.

Mr. KUCINICH. I want to thank the members of the panel, and just ask my colleague, Mr. Issa, when we look at California, and your having an understanding of both Cleveland and California, is it possible that it's only working in California because the housing level right now, and that might also be related to the lending practices and also—you know, yesterday over on, I think, it was Blanche Avenue I saw a house that was appraised for like $68,000, and there's no way that this house was worth that much.

Now, it's boarded up, but when it was first bought, it was $68,000. And I'm wondering, you know, when you have an economic decline that's undercut, does that have an impact.

And could it be that there's a housing level in California that's not here?.

Mr. ISSA. Mr. Chairman, you're exactly right. Actually, if anything, we probably have more predatory loans in California because you buy a house, you pay $300,000 for a starter home in some California communities, and 2 years later you take another $100,000, $150,000 out in a second because the appreciation has been that great. A typical capital investment in 2000 in California doubled by 2005, doubled.

So—and when you start with a base of $2, $3, $4, $500,000 on what we as Clevelanders would call a middle class home, and $190 to $200 for that base housing, just for what we would call affordable housing, and then it doubles. What happens is the mischief that these mortgage brokers—and they sprung up out of nowhere unregulated in California—were able to do was amazing. The only thing keeping California going is, first of all, you can sell your house and get out today because they still appreciated it, and, two, to be quite candid, we have an incredibly low unemployment rate in most of California that is holding it up. It's not that we don't have some cracks in the subprime mortgage programs. It's just that it's so much smaller because we have full employment.

Mr. KUCINICH. And I suppose it's fair to say that, you know, God forbid that there was an economic decline in California, but if there was an economic decline, you would probably see some problems.

Mr. ISSA. The financial landslide, when you're looking at homes that cost so much more, will ripple throughout the country. It's one of the reasons that your hearing here is so important, is as does Cleveland, maybe not so goes the rest of the country. But if what we see here, because of a doubling or so of a historically low unemployment were to happen in California, the default rate would be in the hundreds of billions of dollars, and it clearly would have an effect on the national economy.

Mr. KUCINICH. See, I think that having Congressman Issa here is so important because we're looking at kind of the parentheses of this matter. You know, Cleveland, with a tremendous wave of foreclosures, State of Ohio, with the economic decline, California with a housing bubble, crisis rising, it's really great that we can do this together.

We want to thank the first panel for testifying. Any additional statements that you have or information by the unanimous consent of the committee is able to be submitted to the record. Thank you for being here, and we're now going to move to the second panel, Ms. Sandra Braunstein, who is the Director of the Division of Consumer and Community Affairs for the Federal Reserve. I want to thank her for being here.

Ms. Braunstein, good morning.

Ms. BRAUNSTEIN. Thank you.

Mr. KUCINICH. I want to thank you very much for being here. I want to introduce, to those who are in attendance, Ms. Sandra Braunstein. She is the Director of the Division of Consumer and Community Affairs at the Board of Governors of the Federal Reserve System. She supervises the board's Community Reinvestment Act Examination Program and coordinates the development of policy recommendations relating to consumer protection including the Community Reinvestment Act. She also plays a significant role in analysis and merger and acquisition applications. She was appointed in March 2004 and joined the Federal Reserve Board in 1987.

Ms. Braunstein, it is the policy of the Committee on Oversight and Government Reform to swear in all witnesses before they testify, and I would ask you at this moment to rise and to raise your right hand.

[Witness sworn.]

Mr. KUCINICH. Thank you, witness. Let the record reflect that the witness answered in the affirmative.

Now, as panel 1, I'm going to ask Ms. Braunstein to give an oral summary of her testimony, to keep this summary under 5 minutes in duration, and I want you to bear in mind that your written statement will be included in the hearing record. So, at this point, the floor is yours, and I want to welcome you to this subcommittee hearing.

STATEMENT OF SANDRA BRAUNSTEIN, DIRECTOR, DIVISION OF CONSUMER AND COMMUNITY AFFAIRS, FEDERAL RESERVE SYSTEM

Ms. BRAUNSTEIN. Thank you. Chairman Kucinich, Ranking Member Issa, I appreciate this opportunity to appear in Cleveland to address a number of issues that are of interest to you and your constituents. My written testimony describes the Federal Reserve System's role in evaluating the bank's performance under the Community Reinvestment Act, how the Federal Reserve analyzes applications from banking organizations proposing mergers or acquisition and discusses a number of matters relating to subprime mortgage lending.

I would now like to make a few major points on these issues. As you may know, the Federal Reserve has supervisory authority for State-chartered banks that are members of the Federal Reserve System. These institutions total approximately 900 banks and represent 12.4 percent of total domestic assets of all U.S. banks and thrift. In Ohio, the Federal Reserve has supervisory authority, including conducting examinations for CRA for 33 banks comprising of only 6 percent of banking assets in Ohio.

The Federal Reserve also has responsibility for expansion applications for State-member banks and banking financial holding companies. During our analysis, we review the competitive effects of the proposal in the relevant markets, the financial and managerial resources and future prospects of the bank holding company, and its banking subsidiaries, the convenience and needs of the communities affected. The public is notified when applications are filed and interested parties may comment on any of the statutory factors.

Promoting the availability of credit through the banking system and protecting consumers are important roles for the Federal Reserve. In regards to these objectives, I will address the subprime mortgage lending. The subprime market has grown dramatically over the past decade. In 1994, subprime loans accounted for fewer than 5 percent of mortgage originations, but by 2006 about 20 percent of new mortgage loans were subprime.

While the expansion of the subprime mortgage market over the last decade has increased access to credit, the market has more recently seen increased delinquencies and foreclosures. The board is troubled by these performance issues and understands the significance of the matter to regional markets, communities and families.

The board believes that mortgage market problems need to be addressed in a matter that curves unfair and abusive practices while preserving incentives for responsible subprime lenders.

Accordingly, it is important that any actions we take are well calibrated and do not have the unintended consequences. We want to encourage, not limit, mortgage lending to qualified borrowers our responsible lenders.

I will briefly touch on several means we have used and are using to address subprime lending issues. First, over the past several years the Federal Reserve System has monitored development in the subprime lending industry and has taken steps to address emerging problems. In response to weaknesses in underwriting and risk management at the institutions we supervise, we have issued guidance in concert with other Federal banking agencies. This includes the recent proposed guidance on subprime lending.

Second, in 2001 the board revised the HOEPA rule in response to renewed concerns about predatory lending. In this rulemaking, the board utilized its authority to prohibit unfair and deceptive practices for high-cost loans. For example, the board issued rules that prohibit a HOEPA lender from refinancing one of its own loans with another HOEPA loan, or flipping, within the first year unless the new loan is within the borrower's interest. At the same time the board revised the rules implementing the Home Mortgage Disclosure Act to better track developments in the higher-priced market.

The board is currently conducting a major review of Regulation Z, which implements the Truth in Lending Act of which HOEPA is a part. The board held four public hearings in 2006 on home equity lending and mortgage markets. On June 14th the board will hold a fifth public hearing focussed on how the board might use its rulemaking authority to curve abusive lending practices in the home mortgage market, including the subprime sector.

Third, the board is actively engaging representatives from the mortgage lending, servicing and capitalization arena as well as from borrower and community support organizations to learn about opportunities for borrower intervention and foreclosure mitigation. And, fourth, collaborations to further community development. Consumer and financial education have long been a part of the Federal Reserve System's approach to facilitate solutions to matters that may be most effectively addressed in a local or regional level. In my written testimony, I discuss some of the efforts of the Federal Bank of Cleveland in this regard.

The impact of mortgage delinquency and foreclosure on consumers and communities is of great concern to the Federal Reserve, and we have worked to respond to the issue in both the national and regional levels. We will continue to pursue opportunities to help borrowers and to preserve the access to responsible lending.

[The prepared statement of Ms. Braunstein follows:]

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Statement of

Sandra Braunstein

Director, Division of Consumer and Community Affairs

Board of Governors of the Federal Reserve System

before the

Subcommittee on Domestic Policy

Committee on Oversight and Government Reform

U.S. House of Representatives

Cleveland, Ohio

May 21, 2007

Chairman Kucinich, Ranking Member Issa, and members of the Subcommittee, I appreciate this opportunity to appear in Cleveland to address a number of issues that are of interest to you and your constituents. In my comments, I will describe the Federal Reserve System's role in evaluating banks' performance under the Community Reinvestment Act (CRA), how the Federal Reserve analyzes applications from banking organizations proposing mergers or acquisitions, and matters relating to subprime mortgage lending.

As you may know, the Federal Reserve System has supervisory authority for state-chartered banks that are members of the Federal Reserve System. These institutions total approximately 900 banks and represent 12.4 percent of total domestic assets of all U.S. banks and thrifts. In Ohio, the Federal Reserve has supervisory authority for 33 banks, comprising roughly 6 percent of banking assets in Ohio. Federal Reserve examiners evaluate and rate these banks for safety and soundness, compliance with banking laws and regulations--including those for consumer protection--and for performance under the CRA.

As Director of the Division of Consumer and Community Affairs at the Board, I oversee staff who have responsibility for the consumer compliance and CRA examination program, and I coordinate the process of developing policy recommendations to the Board relating to consumer protection laws and regulations, including the CRA. The Consumer and Community Affairs Division participates in the Board's analysis of merger and acquisition applications by state-member banks and bank holding companies by assessing the applicants' records of serving the convenience and needs of their communities. "Convenience and needs" analysis includes reviewing the institution's record of performance with respect to CRA. We also review its compliance with consumer protection laws and regulations, including fair lending.

The Division also engages in consumer education and research efforts and oversees the Federal Reserve Banks as they undertake community development and other outreach activities in lower-income and traditionally underserved markets. Each of the Reserve Banks have Community Affairs Officers (CAO) who are actively engaged with local and regional organizations to identify and address financial services needs in lower-income neighborhoods and among low- and moderate-income individuals. The CAO of the Federal Reserve Bank of Cleveland, for example, has been a leader in developing collaborative groups to address predatory lending, provide foreclosure intervention, and enhance financial education programming.

CRA Examinations

You have asked that I speak about the Community Reinvestment Act. The CRA applies to insured banks and savings associations and thrifts, but not to companies that own these institutions. It affirms that federally insured banks and thrifts have an obligation to help meet the credit needs of the entire communities they serve, including low- and moderate-income neighborhoods, in a safe and sound manner. Under the CRA, it is the responsibility of the federal financial supervisory agencies to evaluate the performance of institutions under their jurisdiction in meeting this obligation. Neither the statute nor the agencies' regulation specifies how depository institutions are to fulfill their obligation to meet the credit needs in the communities they serve. Instead, the statute directs the federal supervisory agencies to assign a rating of Outstanding, Satisfactory, Needs to Improve, or Substantial Noncompliance to describe an institution's performance. The regulations prescribe the method for assigning an institution's rating. Currently, about 12 percent of all banks and thrifts examined for CRA have an Outstanding rating, 87 percent have earned a Satisfactory rating, and less than .5 percent are assigned either Needs to Improve or Substantial Noncompliance. These ratings are public, as are the Performance Evaluations prepared by the examining agency that describe the banks' CRA performance using both data and qualitative descriptions.

The agencies' CRA regulations specify that institutions of different sizes will be subject to different types of examination. For depository institutions with assets over $1.033 billion, the CRA examination consists of a lending test, an investment test, and a service test. Under the lending test, an institution's practices in lending to low- and moderate-income people and neighborhoods are evaluated on both quantitative and qualitative factors and the outcome is weighted to count for 50 percent of the institution's overall CRA rating. Investments benefiting low- and moderate-income neighborhoods are assessed and services to the entire community, including low- and moderate-income individuals and neighborhoods, are reviewed. Each account for 25 percent of the bank's overall rating. Examiners also weigh the innovativeness of a bank's community development lending, investment, and service programs and activities.

Banks and thrifts with assets of $1.033 billion or less are subject to a somewhat different examination. Those with assets of between $258 million and $1.033 billion are designated as intermediate small institutions and are evaluated on their record of lending in low- and moderate-income areas and to lower-income people in the institutions' assessment area. A community development test is also included in the review of such institutions. This criterion is designed to encourage institutions to engage in a range of community development lending, investment, and services but provides flexibility in determining the volume and mix of these activities. The institutions that are highly rated are responsive to needs and opportunities within their assessment areas in ways that are consistent with their capacity and business strategy.

Small institutions--those with less than $258 million in assets--are evaluated primarily on their lending performance in their communities, including low- and moderate-income areas and populations. Given their more limited capacity and resources, small institutions are not expected to engage in the more complex community development activities.

During the CRA examination, a bank or thrift's performance is assessed within the context of factors such as overall economic conditions in the area and the degree to which there are community development activities in which an institution can participate. This performance context recognizes that while depository institutions have an affirmative obligation to meet the credit needs of the communities in which they are chartered, they must engage only in activities that are safe and sound.

The community has a role in the CRA examination process as well. The public can offer comments on an institution's CRA performance and those comments are available to anyone who requests them. Examiners, of course, review the public comment file and take it into account when evaluating an institution's overall CRA performance. Comments from the public are also taken into account when a banking institution submits an application to its regulator to expand through an acquisition or merger with another institution or to increase the number of its branches.

Let me now turn to the application review process and how the Federal Reserve considers a bank's record of meeting the credit and banking needs of the communities it serves.

The Applications Function

As directed by the Bank Merger Act and the Bank Holding Company Act, the Federal Reserve takes into account a number of factors when it reviews applications for expansion. These include the competitive effects of the proposal in the relevant markets; the financial and managerial resources and future prospects of the bank holding company and its banking subsidiaries; and the convenience and needs of the communities affected. The public is notified when applications are filed and interested parties may comment on any of the statutory factors. Sometimes members of the public, advocacy organizations, and other interested parties comment in order to "protest" applications when they have concerns that the outcome might be diminished services to communities. In fact, it is not uncommon for the Federal Reserve to receive several hundred comment letters as part of the applications process when large banking organizations are involved. Substantive comments are always given a high degree of consideration in the evaluation of the proposal.

In evaluating a banking application that is the subject of a protest, Federal Reserve staff consider the entire supervisory record of the institutions involved in the proposed transaction. Applications are evaluated on a case-by-case basis, but in every instance the following information is taken into account:

- CRA and compliance examination reports;
- CRA record of lending to small businesses and small farms as well as Home Mortgage Disclosure Act (HMDA) data reported by the financial institution;
- Recent actions taken to improve CRA and/or compliance performance weaknesses;
- Enforcement actions, and/or any identified fair lending referrals or investigations;
- Comments submitted by interested parties and the financial institution's response to those comments; and,
- Any additional information requested by the Federal Reserve from the applicant to complete the record or to address concerns raised by the public.

The Federal Reserve holds public meetings to gather input from the community when information cannot be effectively obtained from written comments, other sources, or supervisory processes. Of the thirteen public meetings held since 1990, two involved banking institutions active in the Ohio regional banking market: Banc One Corporation's acquisition of First Chicago in 1998 and the application for JPMorgan Chase to acquire Bank One Corporation in 2004.[1] Transcripts of all public meetings held since 1998 are available on the Federal Reserve Board's website.

In some cases, financial institutions have made lending and/or service commitments to private organizations, such as community groups, to address the needs of the affected communities. The Board views the enforceability of pledges, initiatives, and agreements with third parties as matters outside the scope of the CRA, and neither the CRA nor the federal banking agencies' CRA regulations require depository institutions to make pledges or enter into commitments or agreements with any organization. An applicant must demonstrate a satisfactory record of performance under the CRA without reliance on plans or commitments for future action. Therefore, the Federal Reserve System does not track performance of private commitments between financial institutions and interested third parties. Of course, any commitments made to the Board for specific actions or improvements are monitored through appropriate follow-up.

Since 1988, there have been more than 13,500 applications for the formation, acquisition, or merger of bank holding companies or state-member banks reviewed by the Federal Reserve Board. Over this time, twenty-five of these applications have been denied, with eight of those failing to obtain Board approval involving unsatisfactory consumer protection and community

[1] At the time of this application, Bank One Corporation had moved its headquarters from Columbus, Ohio, to Chicago, Illinois.

needs issues. The low incidence of applications that have not received regulatory approval may be due to the fact that institutions seeking to expand their operations are typically in sound financial and managerial condition and have good supervisory records. Management of applicant institutions has generally recognized the benefit that strong community investment and relations programs offer. In addition, the supervisory and public scrutiny that the CRA brings has prompted many banks to create specialized CRA business units within their organizations. The few cases in which the Board has denied an application on CRA grounds have sent an unmistakable message that it is crucial to have a satisfactory record of CRA performance before applying to expand. Institutions likely understand that the Board will not allow promises of future corrective action to substitute for inadequate current performance.

I should note that those who comment often express concern that a bank merger or acquisition will diminish competition and thus reduce access to banking services and/or increase the cost of those services. Maintaining robust and competitive banking markets is a critical objective in the Federal Reserve's review of banking applications. Staff economists evaluate the likely competitive effects of the proposed transaction in all affected banking markets and assess the impact of the proposed transaction pursuant to well established quantitative measures of banking market concentration.

An examination of these measures in both metropolitan and non-metropolitan areas in Ohio since 1990 reveals that Ohio banking markets are less concentrated than the national average, suggesting that the level of banking competition in Ohio markets is generally greater than in many other communities across the country. In addition, it is worth noting that although the average number of banks operating in metropolitan areas of Ohio has declined somewhat over the past fifteen years, the number of banking offices per person has been quite stable and has remained well below the national average. In non-metropolitan communities in Ohio, the average number of banks has remained relatively stable over the same time period and is above the national average, while the average number of banking offices per person has been fairly stable and close to the national average. These data suggest that, on average, the banking markets in Ohio are at least as competitive as those in other parts of the country, and, over the past fifteen years, there has been no significant decline in competition or consumer access to banking offices in Ohio banking markets.

Subprime Mortgage Lending

As you can see from these comments, promoting the availability of credit through the banking system is an important part of the Federal Reserve's statutory mandate. Another part of the Federal Reserve's responsibilities involves consumer protection, and it is in that role that I would like to address subprime mortgage lending. As you know, the term "subprime" is used to designate loans to borrowers with minimal or blemished credit records or who may present other factors that suggest an elevated degree of credit risk. In recent years, the subprime market has grown dramatically because of advances in credit scoring and underwriting technology, which enables lenders to charge different borrowers different prices on the basis of calculated creditworthiness. These loans are recognized by the higher prices they carry, which reflect the subprime lender's decision to seek additional compensation for the credit risk they incur. In 1994, fewer than 5 percent of mortgage originations were subprime, but by 2006 about 20 percent of new mortgage loans were subprime.

As the overall mortgage market has grown, many new lenders and distribution channels have developed and most of those are outside the direct jurisdiction of the federal banking agencies. A review of data provided by mortgage lenders pursuant to the Home Mortgage

Disclosure Act reveals that lenders that are not subject to oversight by a federal banking agency originated just over half of the higher-priced conventional mortgage loans reported in 2005. In Ohio, nearly 47 percent of all higher-priced conventional loans were originated by independent lenders, while in the City of Cleveland 66 percent of higher-priced conventional mortgage loans were extended by independent lenders that do not fall under the jurisdiction of the federal banking agencies.

While the expansion of the subprime mortgage market over the last decade has increased access to credit, the market has more recently seen increased delinquencies and foreclosures, partly as a consequence of broader economic conditions, including rising interest rates and slowing house price growth. This increase has also called into question the practices of some lenders, with concerns ranging from imprudent underwriting standards to abusive lending practices and even fraud. While recent growth in serious delinquencies and foreclosures appear to be predominately in the subprime market, which at 14 percent of all loans is a relatively small percentage of all outstanding mortgage loans, the Federal Reserve System understands the significance of the matter to regional markets, communities, and families.

Analysis reveals that the majority of subprime foreclosures relate to adjustable rate mortgages (ARM). These loans are often characterized by a rate that will adjust periodically--as frequently as every six months for some products. In times of rising interest rates, borrowers can be subject to significant increases in their payments. When housing prices are appreciating, borrowers with ARMs can cope with payment increases by refinancing the loan, or, in some cases, selling their homes at a gain. In 2006, however, mortgage interest rates hit four-year highs, the volume of home sales declined, and the rate of house price appreciation slowed. In some markets, home prices fell. In a rising rate environment, even borrowers with enough equity to refinance their ARMs may face difficulty finding a new loan with affordable payments. Most recently, an unusually large number of subprime loans have defaulted shortly after origination. In many of these "early payment defaults," borrowers stopped making payments, presumably knowing that they would be unable to meet their ongoing mortgage obligation. This suggests that in 2006 some lenders may have lowered their underwriting standards to maintain volume as borrower demand slackened. The rapid expansion of subprime lending in recent years and generally rising house values may have led lenders, investors, and ratings agencies to underestimate risks, particularly since they had limited data with which to model credit risk posed by new borrowers or novel mortgage types. A number of lenders have already been forced out of the subprime market, in part because of the wave of early payment defaults on mortgages they originated.

Ill-suited loan products or terms are not the only factors that contribute to financial difficulty for borrowers. There can be numerous trigger events--such as the loss of a job, a medical crisis, or divorce--that can undermine homeowners' capacity to fulfill their mortgage obligation. The financial impact of these unfortunate life circumstances is magnified when the leveling or depreciation of housing prices results in a debt obligation exceeding the value of the property. When confronted with both difficult individual financial circumstances and broader economic challenges, homeowners may be unable to refinance their debt or sell their home to pay off the mortgage.

As you know, Ohio has experienced delinquency rates on subprime mortgage loans at a higher rate than the national average for the last two years and has one of the highest foreclosure start rates in the country. Unfortunately, this state has seen a confluence of factors that have made mortgage borrowers more vulnerable to delinquency and foreclosure, as Ohio reports a lower rate of housing appreciation than the national average, unemployment rates that exceed the national average, and a somewhat higher level of subprime mortgages than the national average.

The issues surrounding each mortgage delinquency or foreclosure vary, as does the solution that is best for helping a particular borrower. Thus, loss mitigation and foreclosure intervention efforts typically involve customized assistance in order to devise remedies appropriate to the situation. Fortunately, many community leaders, government officials, and lenders across the country are now collaborating to develop approaches and protocols to help borrowers who are experiencing mortgage delinquencies avoid foreclosure.

Federal Reserve Activities in Response to Mortgage Lending Concerns

The Board believes that mortgage market problems need to be addressed in a way that addresses unfair and abusive practices while preserving incentives for responsible subprime lenders. A robust and responsible subprime market is beneficial to consumers, allowing borrowers with non-prime credit histories or those without a credit history to become homeowners, utilize the existing equity in their homes, or have the flexibility to refinance their loans as needed. Accordingly, it is important that any actions we take are well calibrated and do not have unintended consequences. Constricting the market and returning to a situation where some borrowers have very limited access to credit is not acceptable and reduces the flexibility of individuals and communities. We want to encourage, not limit, mortgage lending to qualified borrowers by responsible lenders.

Over the past several years, the Federal Reserve System has monitored developments in subprime lending and has taken steps to address emerging problems. Among those steps are issuance of regulatory guidance in concert with the other federal banking agencies to address weaknesses in underwriting and risk management at the institutions we supervise; revising regulations to address concerns about abusive practices; and publishing materials to help consumers make informed mortgage credit decisions. The Board has also been actively engaging representatives from the mortgage lending, servicing, and capitalization arena, as well as from borrower and community support organizations, to learn about opportunities for intervention and foreclosure mitigation. The remainder of my comments provides additional information about these initiatives.

Supervisory Guidance

The federal regulatory agencies have the ability to issue supervisory guidance to address their concerns in a relatively expeditious manner and with greater flexibility than rules. Guidance is a tool to signal areas of practice that will receive scrutiny during examinations. Over the last fifteen years, the agencies have issued guidance involving depository institutions' and their affiliates' real estate lending standards and practices to address supervisory concerns that emerged as a result of an evolving mortgage lending market. Since the early 1990s, the agencies have required these institutions to establish and maintain comprehensive, written real estate lending policies that are consistent with safe and sound banking practices. Supervisory guidance has also underscored the need for the underwriting standards of depository institutions and their affiliates to reflect all relevant credit factors, including the capacity of the borrower to adequately service the debt.

Expanded Subprime Guidance

In 2001, an expansion of Interagency Guidance on Subprime Lending, which was originally issued in 1999, addressed essential components of a well-structured risk-management program for subprime lenders. The expanded guidance emphasized that lending standards should include well-defined underwriting parameters such as acceptable loan-to-value ratios, debt-to-income ratios, and minimum acceptable credit scores. It also addressed concerns about predatory or abusive lending practices, such as making unaffordable loans based on the assets of the borrower rather than on the borrower's ability to repay an obligation; inducing a borrower to refinance a loan repeatedly ("loan flipping"); or engaging in fraud or deception to conceal the true nature of the loan obligation, or ancillary products. The guidance cautioned institutions that higher fees and interest rates, combined with compensation incentives, can foster predatory pricing or discriminatory practices.

Guidance on Unfair or Deceptive Acts or Practices

In March 2004, the Board and the FDIC issued guidance on Unfair or Deceptive Acts or Practices (UDAP) to state-chartered banks. The guidance is based on long-standing Federal Trade Commission policy statements that have been applied by courts. The UDAP guidance outlines strategies for banks to use to avoid engaging in unfair or deceptive acts or practices, to minimize their own risks and to protect consumers. Among other things, the guidance focuses on credit advertising and solicitations, loan servicing, and managing and monitoring creditors' employees and third-party service providers.

2006 Guidance on Nontraditional Mortgage Product Risks

In 2006, the Federal Reserve and the other federal banking agencies issued the Interagency Guidance on Nontraditional Mortgage Product Risks (NTM Guidance). The NTM guidance covers loans such as interest-only loans and payment-option ARMs, including those with the potential for negative amortization. The NTM guidance highlights sound underwriting procedures, portfolio risk management, and consumer protection practices that institutions should follow to prudently originate and manage nontraditional mortgage loans. A major aspect of this guidance is the recommendation that a lender's analysis of repayment capacity should include an evaluation of the borrower's ability to repay debt by final maturity at the fully indexed rate, assuming a fully amortizing repayment schedule. The guidance also reminds institutions that they should clearly communicate the risks and features of these products to consumers in a timely manner, before consumers have applied for a loan.

Proposed Guidance on Subprime Mortgage Lending

In March 2007, the agencies issued a proposed Statement on Subprime Mortgage Lending. This proposed guidance is directed at ARM loans targeted to subprime borrowers and includes ARMs that are fully amortizing. The proposed guidance provides that lenders should use the same qualification standards as the NTM guidance. It emphasizes the added dimension of risk when subprime ARM products are combined with other features such as simultaneous second lien loans in lieu of a down payment, or with the use of underwriting that involves little or no documentation of borrowers' income or assets. The proposal differs from earlier guidance in that it highlights the need for lenders to underwrite based not only on principal and interest but also on taxes and insurance. The proposal indicates that lenders should inform consumers of the need to budget for taxes and insurance payments if escrows are not required.

This proposed subprime guidance would apply to all depository institutions, to their subsidiaries, and to non-depository affiliates. To protect borrowers in the portion of the subprime market that is outside the purview of the federal banking agencies, and to ensure a "level playing field" for depository institutions and independent mortgage companies, we coordinated the development of the proposed guidance with the Conference of State Bank Supervisors (CSBS). (State-regulated independent mortgage companies originated slightly more than half of subprime loans, according to 2004 and 2005 HMDA data.) Once the guidance is finalized, we understand that CSBS will strongly encourage the states to adopt similar guidance for state-regulated lenders.

Statement on Working with Mortgage Borrowers

Most recently, the agencies issued a policy letter to the industry encouraging financial institutions to work with homeowners who are unable to make mortgage payments, underscoring that prudent workout arrangements are generally in the long-term interest of both the financial institution and the borrower. Examples of constructive workout arrangements include modifying loan terms, and/or moving borrowers from variable-rate loans to fixed-rate loans. Bank and thrift programs that transition low- or moderate-income homeowners from higher-cost loans to lower-cost loans may also receive favorable consideration under the CRA. The policy letter also urges borrowers who are unable to make their mortgage payments to contact their lender or servicer as soon as possible to discuss available options.

Regulatory Actions

In addition to guidance, the Board has used its rulewriting authority to address other aspects of concern within the mortgage lending market.

HOEPA Rules

In 2001, the Board revised the rules implementing the Home Ownership and Equity Protection Act (HOEPA) in response to renewed concerns about predatory lending. The revised rules became effective in 2002 and extended HOEPA's protections to more high-cost loans. They strengthened HOEPA's prohibitions and restrictions, including by requiring that lenders generally document and verify a consumer's ability to repay a high-cost mortgage loan. In addition, the new rules addressed concerns that high-cost loans were "packed" with credit life insurance or other similar products that increased the loan's cost without providing commensurate benefit to consumers.

To increase protections for consumers, the Board extended the prohibitions against unfair or deceptive practices for HOEPA loans and revised the rules to prohibit a HOEPA lender from refinancing one of its own loans with another HOEPA loan ("flipping") within the first year, unless the new loan is "in the borrower's interest." In addition, the Board prohibited creditors from evading HOEPA's requirements and consumer protections for closed-end loans by documenting the transaction as an "open-end" line of credit when it does not qualify, because there is no expectation of repeat transactions under a reusable line.

These revisions addressed cases where the Board determined that it could write "bright-line" rules defining an unfair or deceptive practice. Because a determination of unfairness or deception depends heavily on the facts of an individual case, the Board has not issued other rules under this provision. However, the Board has undertaken a major review of Regulation Z, the implementing regulation for the Truth in Lending Act (TILA), of which HOEPA is a part. During this review, the Board will determine if there are opportunities to further address issues related to HOEPA loans.

The Board's Review of Mortgage Disclosures Under Regulation Z

With the objective of ensuring that consumers get timely information regarding credit transactions in a form that is readily understandable, the Board will study alternatives for improving both the content and format of disclosures for mortgage loans, including revising the model forms published by the Board. As a general matter, in crafting regulations, the Board seeks to gather as much information as possible by conducting outreach to the industry, consumer groups, consumers, regulators, and other interested parties. We use research and survey data, consumer focus groups, and consumer testing to learn how consumers use and process information about financial services. After regulatory proposals have been published, we obtain input through the public comment process. In addition, we obtain input from the Board's Consumer Advisory Council, comprised of representatives from consumer and community organizations, financial institutions, industry trade groups, academics, and state and local officials from across the country.

At times, the Board also holds public hearings, as it has under HOEPA, to gather information about the subprime mortgage market. During the summer of 2006, four HOEPA hearings considered (1) predatory lending and the impact of the HOEPA rules and state and local anti-predatory lending laws on the subprime market; (2) nontraditional mortgage products such as interest-only mortgage loans and payment-option ARMs, and reverse mortgages; and (3) how consumers select lenders and mortgage products in the subprime mortgage market.

A fifth HOEPA hearing in June will be used to gather information on how the Board might use its rulemaking authority to curb abusive lending practices in the home mortgage market, including the subprime sector.

In considering how to improve disclosures for ARMs and other alternative mortgage products under TILA, the Board will conduct extensive consumer testing to determine what information is most important to consumers, when that information is most useful, what wording and formats work best, and how disclosures can be simplified, prioritized, and organized to reduce complexity and information overload. The Board will use design consultants to assist in developing model disclosures that will be effective in communicating information to consumers.

Based on its review of Regulation Z, the Board will revise Regulation Z within the existing framework of TILA or, if it determines that useful changes to the closed-end disclosures are best accomplished through legislation, it will inform the Congress.

The regulatory review process is necessarily complex and takes time. So, in the interest of providing improved information to consumers sooner rather than later, the Board, in partnership with the Office of Thrift Supervision, recently revised the Consumer Handbook on Adjustable Rate Mortgages (CHARM booklet) to include additional information about nontraditional mortgage products. The CHARM booklet is an effective means of reaching consumers because creditors are required to provide a copy of the booklet to each consumer when an application for an ARM is provided.

Consumer Education and Community Engagement

Consumer education efforts have been another important component of our response to concerns in the subprime lending market. The Board has sought to increase consumer awareness of the risks of nontraditional mortgage loans by providing consumers with information, both in print and on the web, on adjustable rate, interest-only, and payment-option mortgages. We recently published a consumer education brochure titled: Interest-Only Mortgage Payments and Payment-Option ARMs--Are They for You? The brochure is designed to assist consumers who are shopping for a mortgage loan. These informational brochures complement a host of other financial education resources that can be found at: www.federalreserveeducation.org.

As I mentioned earlier, the Board has been actively engaging leaders of the various components of the mortgage lending industry, as well as community leaders, to learn about opportunities for loss mitigation and foreclosure intervention. In April, the Board, along with the other federal banking agencies, cosponsored a forum of secondary market participants to develop a better understanding of the challenges in addressing delinquencies and mitigating foreclosures, such as the unintended consequences of contractual obligations among lenders, servicers, and investors. Currently, the Board is convening follow-up meetings with key market players to further identify strategies that may provide solutions for working with borrowers who are unable to meet their mortgage obligations. Engagement of private, public, and nonprofit sector participants is one way that the Federal Reserve seeks to work toward practical solutions for issues that may be beyond our supervisory reach. Collaborations to further community development and financial education have long been part of the Federal Reserve System's approach to facilitate solutions to matters that may be most effectively addressed at a local or regional level.

In addition, the Community Affairs Offices throughout the Federal Reserve System have been actively engaged in collaborations with local and regional government agencies, lenders, and nonprofit organizations to identify strategies to assist troubled mortgage borrowers. Many Reserve Banks have collaborated with NeighborWorks America® organizations in their districts. This national nonprofit organization, which has a Federal Reserve Board member serving on its board of directors, is dedicated to promoting and sustaining homeownership. NeighborWorks America® has been on the front line in developing hotlines, counseling, and loan funds to help mitigate foreclosure in many communities throughout the country. Here in Ohio, the Federal Reserve Bank of Cleveland has been proactive in connecting with lenders, community leaders, government officials, and academics to help bring understanding to the issues and highlight best practices and resources for addressing mortgage delinquencies and foreclosures. The Reserve Bank is serving as a convener of government, financial institutions, and community-based organizations in assessing and addressing regional foreclosure issues. Among the events the

Reserve Bank has co-hosted was an Ohio Foreclosure Summit in 2005, which led to the introduction of the NeighborWorks 1-800 hotline in Ohio, and addressed issues of financial education, predatory lending, policy, regulation, and enforcement. In addition, the Reserve Bank helped organize and participated in a 2006 Ohio Foreclosure Summit in Toledo. Both summits included community, industry, and government representatives. Last year, the Federal Reserve Bank of Cleveland also hosted high-level panel presentations in their Cleveland and Pittsburgh offices so that representatives from lending institutions, nonprofit organizations, and local governments could present their concerns to senior Federal Reserve Bank officials. In addition, the Cleveland Federal Reserve convened financial education consortia in Dayton, Cincinnati, and Northeast Ohio that brought together providers and funders to help expand the reach and impact of the many financial education programs designed to help low- and moderate-income consumers. These consortia have created websites and directories of services and hosted meetings to share best practices. The website and directories are resource guides for residents and community-based organizations that they can use to find professional service providers to help them with basic money management and resolving difficult financial situations such as foreclosure. The Federal Reserve Bank is currently working on an analysis of data availability and gaps that exist in accurately tracking foreclosures within the district. The report explains the challenges that exist in assessing the scope and scale of the issue and barriers that exist due to lack of information.

In closing, I would like to commend the local leaders and organizations that are collaborating in Ohio to develop creative programs to respond to their constituents' needs. I had the opportunity to meet with several of them earlier this month, and benefited from their analyses of the issues and the strategies they are undertaking to support borrowers through rescue loan programs, intervention and work outs, and financial education and counseling. As real estate markets are driven by local and regional dynamics, it is essential to have localized efforts that address the underlying problems, not just the symptoms, and to effectively reach individual borrowers to provide assistance in working through their financial crises and avoiding foreclosure.

One of the many challenges that we confront in this environment is to address concerns regarding mortgage lending practices while preserving the flexibility necessary to allow lenders to help troubled borrowers by employing various foreclosure prevention strategies, including debt restructuring and refinance. Certainly, we all recognize the importance of preserving the record rate of homeownership, which is to the benefit of both consumers and the economy. And, a robust and disciplined subprime market is vital to ensuring continued progress in broad access to credit and homeownership.

Mr. KUCINICH. I want to thank you, Ms. Braunstein, for being here to represent the Fed.

Now, in your testimony you cite two public hearings. In your prepared testimony you cite two public hearings involving Ohio banks in the last 10 years. Now, for the record, will you state which Federal Reserve Bank convened those hearings?

Ms. BRAUNSTEIN. Those hearings—actually, public hearings are convened by the board, and that's one of the things that I wanted to correct a bit. There are a number of items you discussed in the first panel where the actual decisionmaking is in Washington as a board, not in the local Federal Reserve Bank.

Mr. KUCINICH. Weren't those hearings held by the Federal Reserve Bank that came out of Chicago.

Ms. BRAUNSTEIN. Those hearings were held in Chicago, yes.

Mr. KUCINICH. Thank you. Now, for the record, will you state the last time the Cleveland Fed held a public hearing on——

Ms. BRAUNSTEIN. The last time we held a public hearing in Cleveland, it was in 1981.

Mr. KUCINICH. Would the staff correct the record? Is it not 1979 or 1981? OK. Our information shows 1979.

So, if you could provide this committee with information on the year, we would appreciate it.

Now, can you explain, in any event, why so much time has passed without another public hearing?

Ms. BRAUNSTEIN. Well, first of all, we make decisions, the board makes decisions on public hearings, and there have been—since 1990, there have been 13 public meetings related to applications.

Mr. KUCINICH. Not in the Cleveland area, though, right.

Ms. BRAUNSTEIN. Not in the Cleveland area. There's been two in the Cleveland area, the one you keep referring to in 1979 and one in 1981. There have been—when we decide to hold a public meeting on an application, the reason we do that is because we cannot get sufficient information to make a decision on a case without holding the public meeting.

Every application has a public comment process, and it's not unusual for us to receive hundreds of comments.

Mr. KUCINICH. In other words, if you feel you have sufficient information, you don't hold a public hearing.

Ms. BRAUNSTEIN. Correct. That is correct.

Mr. KUCINICH. So, all of these other mergers have taken place over the past 25 or so years, 27 to 30 years. You just didn't need the extra information; is that what your position is.

Ms. BRAUNSTEIN. We did not feel we needed—in order to get what information we needed to make a decision, it was not necessary to hold a public meeting.

Mr. KUCINICH. Now, we've been hearing that important data maintained by the Fed pursuant to the Home Mortgage Disclosure Act is not easily useable even by skilled researchers. Is the Fed aware of the difficulties experienced by users of the Home Mortgage Disclosure Act data, and when can we expect the Fed to include the usability of this data.

Ms. BRAUNSTEIN. I know that the people who are in charge of the HMDA data work with consumers and community groups all the time to try to help them with this data. If there are specific problems associated with that, we would like to know about them, and we will see what we can do to address them. I'm not aware of specific problems.

Mr. KUCINICH. Will you explain how such a high percentage of banks are receiving passing Community Reinvestment Act rates, maybe 97, 99 percent at the same time that one out of every five subprime mortgages originated in the past 2 years will end up in foreclosure? How can that happen.

Ms. BRAUNSTEIN. Well, first of all, over 50 percent of the subprime mortgages that are made, and even higher in Ohio, it's in the 60 percent range, are made by independent mortgage companies that are not federally regulated and, therefore, not subject to CRA, so that is one part of it.

Mr. KUCINICH. Have you——

Ms. BRAUNSTEIN. And I know for the banks—I can only speak to the banks that we supervise. We have, as I mentioned, 33 banks, and in 2005 HMDA data our State-member banks made 17 high-cost loans. So, they are not engaged in subprime lending.

Mr. KUCINICH. Now, we know that there are financial institutions who have created secondary products in the subprime markets, correct.

Ms. BRAUNSTEIN. Yes.

Mr. KUCINICH. So, if these financial institutions, you know, with whom you have oversight create those products, what stops the Fed from being able to monitor the creations of these financial institutions? Why would you not be able to do that.

Ms. BRAUNSTEIN. Well, it's likely that the secondary market products may be created at the cooperate holding company level, and our responsibilities with regard to that are to make sure that those companies are safe and sound, and that is what we do.

Mr. KUCINICH. You don't look at their practices. You don't look at whether they're——

Ms. BRAUNSTEIN. Well, an affiliate of a holding company would not be subject to CRA, just the deposit. CRA applies to depository institutions only. And those are State-member banks, and, as I said, our State-member banks are not——

Mr. KUCINICH. Here's what I don't get. You at the Fed, you've just told me that you don't need to have these community hearings as long as you get sufficient information. That's on one hand. On the other hand, you see an avalanche of defaults in the subprime housing market.

Are you aware that's happening? Are you aware of the level of defaults?

Ms. BRAUNSTEIN. We certainly are, and we're taking, as I mentioned, a number of steps to address that. Those—our applications process is somewhat separate and apart from what we're doing in terms of foreclosures.

Mr. KUCINICH. Are you helpless to do anything about this avalanche of defaults? Because, see, here's the problem that I have—and, Mr. Issa, this is something that motivates the cause of this hearing. We have people in the community who are really screaming out, crying out for help in getting recognition of the problem. If the Fed won't hold hearings—and on the other hand you say, well, we have sufficient information. We don't have to hold a hearings. If you do not take responsibility for monitoring the activities of the subprime one way or another and you don't hear from the people, you will not hear from the people because you say you have sufficient information, then how in the world, other than a hearing like this, would you ever get an opportunity? Will the people ever get an opportunity to be heard in neighborhoods that are falling apart because of this avalanche of foreclosures? Can you help us with that?

Ms. BRAUNSTEIN. We are monitoring the circumstances of foreclosures around the country, and we have taken several steps in that regard. We have issued guidance on non-traditional mortgages. We have issued guidance on subprime lending. We have issued guidance to lenders in terms of doing workouts. We are heavily engaged in meeting with people both in consumer groups and industry people to talk about the problems that exist and how workouts can be done and how people can keep their homes. We are heavily engaged in a number of activities.

And here locally the Federal Reserve Bank of Cleveland is heavily engaged in the community. They held a foreclosure summit in 2005 and 2006 on a local basis, and they're working in partnership with a lot of local community organizations on foreclosure mitigation and education projects.

So, we are heavily involved in activities around foreclosure, and it is a huge concern for us. We are doing what we can.

We are examining our rulemaking to see if we can do something under HOEPA. We have already held four public hearings on this matter, and we are holding a fifth one on June 14th in Washington, as I said, in particular to focus on unfair and deceptive borrowing.

Mr. KUCINICH. And are you also looking at these deceptive and sharp lending practices in the subprime mortgage industry so that neighborhoods, such as in Cleveland, OH, are not going to be crushed by these unfair practices? Are you looking at that.

Ms. BRAUNSTEIN. Yes. We definitely are looking at that, but the one thing that we all have to keep in mind is that we can write rules that can address some of these practices, but we are not the enforcement agency for most of the lenders. In fact, we have very little subprime lenders under our direct enforcement. That is done by other regulators.

Mr. KUCINICH. I want to go to Mr. Issa after this question. One of our witnesses today remarked that one of the failings of the Community Reinvestment Act is this, and this is a quote. If a bank purchases predatory loans, it may be fulfilling its obligation under the lending test. Similarly, a bank that purchases securities backed by predatory loans may be able to claim credit under the investment test. In other words, the quality of a loan is not considered in the Community Reinvestment Act examination. Only where the loan was made large banks can own subprime lending affiliates to make predatory loans in low-income minority areas, and the bank can get rewarded under the Community Reinvestment Act.

And in connection with the statement that you just made, how long is the Fed going to allow this twisting of the intent of the Community Reinvestment Act, and when is the Fed going to issue new regulations denying Community Reinvestment Act credits for financing predatory loans and lenders? I would appreciate your answer.

Ms. BRAUNSTEIN. If we know that a bank is making loans that are predatory in nature, there will not be Community Reinvestment Act credit for those, and, in fact, we would look further into that.

Mr. KUCINICH. Mr. Issa, thank you very much.

Mr. ISSA. Thank, Mr. Chairman. I think you've gotten us off to a good start. I want to sort of stay on that same line.

Let me characterize a little bit of what I'm hearing. Basically, you're damned if you do and you're damned if you don't. If you, in fact, have to make these loans, but if you make these loans and they're high risk and they default, then it's your fault. And in your case, if I understand, Ms. Braunstein, that banks are not doing it directly. They're doing it by impact. As you said, there were only 17 loans made by banks in a direct relationship.

But to the extent that we are holding both of these, I want to followup on something the previous panel, Ms. Anderson, said when a home is boarded up and the neighborhood goes down and there are one after another, these homes are owned by banks, and the bank is getting zero on them.

So, I'm trying to understand, because you oversee banks, this is a huge hit to the banks who own these portfolios of non-performing purchases of portfolio, and, in fact, can't even liquidate the underlying assets in some cases. So, on that $68,000 home that wasn't worth $68,000, they get a goose egg, isn't that, right?

Ms. BRAUNSTEIN. Yes. That would be—absolutely. I mean in our safety and sound examinations, if banks have large portfolios of loans that are defaulted, that is certainly going to impact them.

Mr. ISSA. The earlier panel, one of the things I didn't followup with them, but it stuck in my mind, is that the vast majority of defaults are refies. So, it's not the original mortgage on the home, but, in fact, a refinancing. Is that your understanding also?

Ms. BRAUNSTEIN. I think it's more than half. My—I think my statistics are not quite what the panel had before.

What we've heard in Ohio, I think from the HMDA data, it's more like 60 percent are revised versus about 40 percent are purchase money in Ohio.

Mr. ISSA. So, I'm trying to understand this specifically for Ohio because, as you know, my heart is here even though my car is out in California. Now, it just works that way, everyone has to have cars in California.

I find this interesting because if, in fact, you make these loans and then you have refies, then that means there was money taken out. Where did the money go?

In other words, you had a performing loan and a loan that, when we're looking back, went to being predatory, to use the term. I don't like the term because the truth is some of these are high risk and some may be predatory, but when they went from being purchase money to being recollateralized as a second, is probably when these things tipped over. At least 60 percent of them might have tipped over being what the consumer couldn't afford.

But my question to you is, where did the money go? Where does typically that money go when they take it out? Does it go into the stock market? Does it go into other areas or is it a result of consumer debt and other signs that when we look at the Fed chairman's role, he often speaks on.

Ms. BRAUNSTEIN. I don't have statistics on that, but my guess would be that often times people are venerable and put into a position of refinancing because they have other obligations.

Mr. ISSA. So——

Ms. BRAUNSTEIN. I doubt that people are doing this to invest in the stock market. It would be my gut feelings. I think it's more likely that they have other debts that they're trying to pay off.

Mr. ISSA. So, the 60 percent would be people who are in trouble, and in a sense it's predatory, but it's predatory on both sides. They're slipping in toward bankruptcy. A refy lets them get some cooling off space for making a whole bunch of credit card loans, but, ultimately, they slip right back into it.

Where would we get an understanding of that? Because obviously, you know, earlier they talked about liar's loans. I've always had a problem with calling liar's loans predatory because I'm saying, wait a second. If you lie to get a loan, then who's the victim when it goes into default? I've always felt that a liar's loan was sort of over here with, wait a second, if you lie to get a loan, and then eventually you're out of a house, and I've got a house that is upside down, and if I were a banker, I'm wondering who's the victim here, and I think the bank is the victim in the case of liar's loans.

Ms. BRAUNSTEIN. Those can go two ways. I will tell you one of the ways we can get information about questions you've asked are the four hearings that we held last year in 2006. And one of the things that we heard over and over again anecdotally was that the stated income loans—they can go two ways. It could be that a borrower will overinflate their income. Yeah. They don't have to document their income.

It's also where the broker or the lender may put the wrong number in, and so in that case a borrower would be a victim. And we have heard anecdotally a lot of stories about the case where the borrower did not even realize the number that the lender was putting into the application.

Mr. ISSA. I know it may be a lot of work, but to the extent that you can, would you provide this committee with information you've gotten from those hearings that you think would be appropriate for our continued followup and also from your public comments? Because as I understand, your public comments in a sense are open forum hearings. You can take 200, 300, 400 comments, where in a hearing like this today as we can all see, you're only going to get a few people into a speech into an hour or 2-hour period.

Ms. BRAUNSTEIN. Absolutely. For each of the four hearings, as well as the fifth one on June 14th, there is a public comment process attached to that where we encourage people to write us and tell us comments on the issues.

Mr. ISSA. Now, I'm going to close out with one that is near and dear to my heart. When I came to Congress, I came to one of my other committees, the Judiciary Committee, and we worked on bankruptcy reform my first, second and third term, and, finally, got it passed. And I think all of us know that anything that's that hard to get passed, you didn't get it all in.

When it comes to how the Fed—and I realize you probably won't be able to give us a full answer today, but I would appreciate a supplement from your board and others that may be able to comment. In bankruptcy reform we really didn't deal, if you will, with home ownership. In California, we call them cram downs. When, in fact, in a bankruptcy it is determined that a mortgage is not payable, the authority of the bankruptcy judge to view that and to view, for example, that a predatory event occurred, an event occurred that may have led to the inability to pay, etc., we didn't deal with that. We sort of left the case law where it was to a great extent.

Well, at the same time we may be individual if they have the ability to pay for future revenues. So, when we looked at specifically, bankruptcy, if a bankruptcy event occurs, can you give us your comments on things that maybe we should pick up legislatively that may empower the courts who ultimately, if they give debt relief and someone comes out of a bankruptcy still owning their home but at a different mortgage rate, etc., it tips the balance as to your institutions, could you give us whatever followup comments you feel are appropriate because I believe in light of a lot of what we're seeing here, that we may be looking on the other comment at a bankruptcy reform affecting what happens to somebody that's been a victim of predatory lending?

Ms. BRAUNSTEIN. We'll have to get back to you on that because, frankly, I'm not prepared to discuss that at this point in time.

Mr. ISSA. I understand. Thank you, Mr. Chairman. I yield back.

Mr. KUCINICH. I want to thank Mr. Issa. You know, in your discussion you raised a couple of questions, and what I'd like to do is have a very short second round here.

Mr. ISSA. I love second rounds.

Mr. KUCINICH. If we may proceed. Do you think, Ms. Braunstein, that the guidance the Fed has issued has been adequate to the magnitude of the predatory lending crisis.

Ms. BRAUNSTEIN. I think that we still—it is too early. First of all, the non-traditional mortgage guidance has only been in effect for a few months, and the subprime guidance has not been finalized yet, so I think it's too early to make that judgment. However, I will say that we have seen signs that even without final guidance, the markets are starting to self-correct in that we hear that underwriting is being tightened.

Ms. BRAUNSTEIN. Well, it took a long time in the sense that there were a lot of people hurt, but most of the people who are having problems now received their loans in, some in 2005 and most in 2006.

Mr. KUCINICH. OK.

Ms. BRAUNSTEIN. So, if you look at it that way, it's not been a problem for years and years and years.

Mr. KUCINICH. Mr. Rokakis said something when he was testifying. Did you hear his testimony?

Ms. BRAUNSTEIN. Yes, I did.

Mr. KUCINICH. He raised some questions. He said that the Fed can ban no-document loans, but they have not. Is that true.

Ms. BRAUNSTEIN. I think what Mr. Rokakis was referring to was our authority under HOEPA, and that is what we are looking at at this hearing.

Mr. KUCINICH. Is that true though, that you can ban no-document loans? Is that true.

Ms. BRAUNSTEIN. I guess technically we could, but I do need to qualify that, that in exercising our authority for unfair and deceptive or banning practices, we are going to have to do some very careful study to look at the wider effects that we need to be well calibrated, so that we don't end up in a situation where we're restricting or constraining credit.

Mr. KUCINICH. He also said that you can ban loans that are not fully indexed to a borrower's income. Is that true.

Ms. BRAUNSTEIN. Again, that would probably fall under—if it meets the definitions of unfair and deceptive, then that's another part of the law that we are doing an analysis of, and so I don't know if we could ban that or not.

Mr. KUCINICH. Well, he says that you can ban the practice known as risk layering where borrowers with the weakest credit are offered gimmicks to qualify them for loans, but you have not. Is that true.

Ms. BRAUNSTEIN. Again, we are looking at that, and I am not sure because in addition to wanting to be careful about how we calibrate bans or practices, the way the law is written, they need to meet the definition of unfair and deceptive, and these may not meet that definition. So, I can't answer that at this point. These are things that we are looking at.

Mr. KUCINICH. Well, what I'd like you to do, I mean, in a follow-up, written answers to these questions. If you can't answer them and elaborate right now, I can understand that because there's a lot of things that are apparently in flux at the Fed relative to these questions. But Mr. Rokakis also said that you can require that all subprime loans provide for escrow taxes and insurance in their payments, but that you don't. Is that true.

Ms. BRAUNSTEIN. Same answer as——

[The information referred to follows:]

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

SANDRA F. BRAUNSTEIN
DIRECTOR
DIVISION OF CONSUMER
AND COMMUNITY AFFAIRS

August 14, 2007

The Honorable Dennis J. Kucinich
Chairman
Subcommittee on Domestic Policy
Committee on Oversight and Government Reform
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

During my appearance before your Subcommittee on May 21, you asked me to provide additional information. I am pleased to enclose this information for inclusion in the record of the hearing.

Please let me know if I can be of further assistance.

Sincerely,

Sandra Braunstein

Enclosure

<u>Insert page 68, following line 1556</u> (Hearing of May 21, 2007)

Sandra Braunstein subsequently submitted the following:

You asked whether the Federal Reserve Board has the authority to ban or require certain kinds of mortgage loans. Specifically, you asked whether the Board may ban loans where the borrower's income is not documented, known as "no doc" loans; require lenders to make adjustable rate mortgage loans using a fully-indexed rate, rather than any temporarily discounted rate; require lenders to set up escrows for property taxes and homeowners insurance; and ban loans made without regard to the borrower's ability to repay.

As I indicated in my testimony, the Board has authority under the Home Ownership and Equity Protection Act (HOEPA) to prohibit unfair or deceptive acts or practices in connection with mortgage loans. There are established standards for determining when an act or practice is either unfair or deceptive. The Board must take those standards into account when it exercises its HOEPA authority.

The Board is actively considering whether the practices you asked me about, as well as other mortgage lending practices such as prepayment penalties, are unfair or deceptive in at least some circumstances. These practices were the subject of a public hearing the Board held on June 14, where it heard testimony of state banking and enforcement agencies, consumer advocates, industry representatives, and academics. Based on the facts the Board gathered through this hearing and by other means, the Board expects to propose new rules under its HOEPA authority later this year.

Mr. KUCINICH. OK. Well, I think that this is a productive hearing if we can open up a discussion here with the Fed about the direction that you need to take, because we're not only looking at the forensics of this. We're looking at where we are headed for the future.

Ms. BRAUNSTEIN. And can I say this.

Mr. KUCINICH. Sure.

Ms. BRAUNSTEIN. These were already things we are looking at under this authority. Some of those things, it may end up are better dealt with through guidance, and we have dealt with those issues in the subprime guidance that we have now out and that we're finalizing. So, there's a big difference between dealing with something in guidance and dealing with it in the rule.

Mr. KUCINICH. I understand that, and I also ask you to take note that while you're calibrating these things, neighborhoods are falling apart. We really need your help.

And the one final question I have before I go back to Mr. Issa is this. Again, in your statement about public hearings, which, you know, there was an aspect of it that I found very troubling, you said, you know, you could get sufficient information. Mr. Issa pointed out that you solicit comments. That's good. But you still don't have these public hearings for people here in the community. My question to you is, do you meet with bankers to discuss these issues?

Ms. BRAUNSTEIN. Are you talking about applications issues.

Mr. KUCINICH. No. I'm talking about the issues that you wouldn't hold in a public hearing to talk to people in the community. Do you have meetings with bankers?

Ms. BRAUNSTEIN. We meet with a wide range of people. We meet with people from the industry. We meet with bankers. We meet with community organizations on a regular basis.

Mr. KUCINICH. The obvious reason why I raise that question is, I mean, people in the community would feel hurt if they felt that you wouldn't meet with them, but you would meet with the bankers. And so I just want to appeal to the fairness of this process as we move forward.

I thank you very much, by the way, for your testimony and now to Mr. Issa.

Mr. ISSA. Working with the chairman is a great deal of fun, and I've always liked his insight. Once in a while he gets mine and wonders where it came from. But, you know, the interesting thing is that I meet with the NRA and I meet with the Brady organization. I don't hold a public hearing to see all the gunners come in and anti-gunners come in to tell me what they think. And, perhaps, I should, but I've had some pretty lively town hall meetings, so I try to stay off of some subjects.

Mr. KUCINICH. Maybe you should have that sign and say that you will check your guns at the door.

Mr. ISSA. I once had to have SWAT because I did an immigration reform hearing, and I now do those telephonically.

But I want to close out my questioning for something that I hope the Fed can take an active role in, and that is modelling the question of the 80 versus the 20. Today in this hearing so far what we've seen is that in the worst case, you're going to have about 20 percent of these loans go south, at least, based on all the worst case problems we've seen so far. That means 80 percent of the people who take these high-risk or subprime loans perform under the—perhaps convert them in time to conforming loans. And I'm concerned that 80 percent and, perhaps, the others, certainly the 80 percent, might not have gotten a loan, might not have owned a home.

And so as you're doing this, I hope that you're going to be able to supply this committee and the public with some modelling of the what if. What if we tighten this up a little? Do 79 percent of the 80 percent still get their homes? Well, a big chunk of the misery factor goes away or is it one of those things where half the people who got these loans, and as a result, are enjoying home ownership around the country, will be denied? And that's going to be very important to me, that as much as I don't want to see boarded up homes, I don't want to see—quite frankly, I don't want to see banks making loans that ultimately lead to defaults.

At the same time, as Members of Congress, the one thing that we've got a very bipartisan basis and President after President has stated, is home ownership is a big part of what America is all about. And moving that number up as we've done as a society over the last few years continues to be important, so I'm hoping that you can give us insight on that. Because as much as we want you to reduce this pain factor—as a homeowner who was lucky enough to get a VA loan the first time, I realized I was a bit of a stretch starting a business here in Cleveland and getting my VA loan with no qualification necessary other than an honorable discharge.

So, if you would respond to us in writing for that, and obviously we're hoping for leadership from the Fed, and I'm happy that you were able to be here today. We talk about the Federal Reserve Bank of Cleveland, and it is a noble institution, but I appreciate the fact that, as I understand, you just came from Washington to make this happen for us.

Ms. BRAUNSTEIN. Thank you very much, and I agree with you, Congressman, and that's what we're trying to do, is achieve the right balance, and we would be happy to get to you on that.

Mr. ISSA. Thank you, Mr. Chairman. I yield back.

Mr. KUCINICH. The chair is going to declare a 5-minute recess. We'll come back in 5 minutes. We intend to complete this hearing by 1. I would ask the next panel to stay close. If you're going to leave the room, please know that we're starting again in 5 minutes.

[Recess.]

Mr. KUCINICH. The committee will come to order. The committee will come to order. If you have any conversations, please take them outside the room.

I want to make sure that anyone who has participated here signs the sign-in list so that as the work of this committee continues, we can keep you posted of any further discussions or hearings on the subcommittee relative to these questions. We now are about to begin the third panel.

And I would like to make the following introductions: Judge Raymond Pianka is presiding as administrative judge in the Cleveland Municipal Housing Courts. A division he has served as such since his election in 1996.

Previously, Judge Pianka served on the Cleveland City Council where he chaired the Community and Economic Development Committee and the legislative committee.

Judge Pianka received his jurist doctorate from Cleveland Marshall College of Law in 1977.

Professor Kathleen Engel is a professor at the Cleveland Marshal College of Law. Her research focuses on predatory lending, housing discrimination and the Community Reinvestment Act. She's published a long list of law review articles on the topic and teaches a seminar at the law school on predatory lending.

A recent article was entitled, "Do cities have standing? Redressing the externalities of predatory lending." Professor Engel received her AB, cum laude from Smith College and her JD, cum laude from the University of Texas School of Law. Mr. Alex Pollock has been a resident fellow at the America, Enterprise Institute since 2004 focussing on financial policy issues among other related issues. Previously he has spent 35 years in banking, including 12 years as president chief executive of the Federal Home Loan Bank of Ohio. He's director of the Allied Capital Corp., the Chicago Mercantile Exchange, the Great Lakes Higher Education Corp., the International Union for Housing Finance and chairman of the Board of Great Books Foundation.

Ms. Marianne McCarty-Collins is the senior vice president of Insight Bank, past president of both the Columbus and Ohio Mortgage Bankers Association. At the Mortgage Bankers Association, the National Association for the Industry, she serves on the Board of Directors and Board of Governors. She's a former trustee for the Columbus Board of Realtors, chairs the Government Financing Subcommittee as former affiliate of the year for the association.

She's also a former trustee of the building industry of central Ohio. Ms. McCarty-Collins has served on the Fannie Mae National Advisory Council in Washington, DC, in 1996 and 1997.

I want to thank this distinguished panel of witnesses for being here. It is the policy of the Committee on Oversight and Government Reform to swear in all witnesses before they testify. I'm going to ask you now to rise and to raise your right hands.

[Witnesses sworn.]

Mr. KUCINICH. Thank you. Let the record reflect that all of the witnesses answered in the affirmative. As with panel 2, I ask that each witness give an oral summary of his or her testimony, and to keep in mind that you should keep that summary under 5 minutes in duration. Your written statement will be included in the hearing record.

I'd like to start with Judge Pianka. Thank you very much for being here. Please proceed.

STATEMENT OF RAYMOND PIANKA, JUDGE, CLEVELAND MUNICIPAL HOUSING COURT

Judge PIANKA. Thank you for the opportunity to be here. The Cleveland Housing Court has been described by Chief Justice Moyer as emergency room for housing conditions in Cleveland. We are a problem solving and therapeutic court.

As judge of the housing court, the sole judge of the housing court, I observe daily in the cases before me the impact of the banking industry and the lack of regulation on it in our homes and our neighborhoods.

There are nine points briefly. First of all, the lack of regulation has reduced our neighborhoods to financial wild wests with homeowners left to fend for themselves with an attempt to survive in those neighborhoods. Cleveland is experiencing a record number of home mortgage defaults, foreclosures, bankruptcies and failed financial deals. The primary impact of the financial crisis is, of course, on the property owner. The homeowners, however, are not the only ones who are suffering as result of the increased number of defaults and foreclosures.

The collateral damage from this financial decline is felt worse in our neighborhoods as the committee saw yesterday in its tour of the Cleveland neighborhood. Each day I see property owners who were told by banks and mortgage companies to vacate their properties at the commencement of the foreclosure actions leaving the properties empty and unattended. Their neighborhoods are forced to live next door to that vacant, boarded property with high grass and weeds stripped of siding and they contact the court about their options to combat these living conditions.

These homeowners not only suffer the effects of living next door to the blight, they suffer financial loss as well as their own properties are devalued as a result. The frustrated city council representatives contact the court, are concerned about the abandoned property that are magnets for criminal activity, and they produce a domino effect as poorly maintained properties lead to more poorly maintained and properties in default. And there are discouraged community groups who are trying to help but cannot as they attempt to determine who, if anyone, has authority and responsibility for the properties.

I've been with the housing court for over 10 years, and the negative impact of the mortgage defaults, foreclosures, and conduct of the banking industry upon our neighborhoods has never been greater than it is today.

Certainly, the banks and other lending institutions have a right and even an obligation to initiate foreclosure actions when mortgages go unpaid. However, the non-regulation of the industry has led to a lack of enforcement of basic fiduciary duties of banks and other lending institutions.

The banks and other lenders must be called on to act responsibly in both lending and collection processes to minimize the destructive effect on our neighborhoods. Reduced lending by the regulated banks has created a vacuum which is being filled by less reputable lenders. Lending in Cleveland by regulated banks has dropped sharply since 1995. The refusal of regulated banks to lend in Cleveland has created a vacuum, which is being filled in part by unscrupulous, subprime lenders, perpetrators of mortgage fraud and irresponsible investors.

Each day in court I'm told stories by property owners with little incomes who have fallen prey to schemes involving purchase of multiple properties as investment opportunities. The schemes seem to thrive in the current, unregulated lending atmosphere of Greater Cleveland. And while there are laws against fraudulent applications, waste, false statements of income and deceitful appraisals, those laws go largely unenforced.

And I'm heartened to see the current efforts to prosecute some of the perpetrators of these schemes, but the prosecutions are small in numbers and slow. And because of the time needed to investigate and pursue these cases, it's unrealistic to view prosecution as a cure. Reputable lenders must encourage and encourage to occupy their place to lend money to people who purchase homes and refinance homes in Cleveland. Lenders must be accessible to borrowers and other interested parties and be responsible in their actions toward borrowers. One of the primary problems that we face in a housing court is our inability to reach someone in the bank or lending institution who is able and willing to discuss the property with the defaulting property owner or the court. It's difficult to find a contact person who can negotiate a deed in lieu of foreclosure or short sale that would transfer that property to a beneficial loaner.

And this inability to contact the financial institution coupled with a fact that a number of the banks are avoiding service of process in the—is that my time.

Mr. KUCINICH. Yeah. What I want you to know, Your Honor, is that you have an extensive statement here that is actually quite helpful to this committee. Your entire statement will be included in the record, and I think that you'll be able to get to some of these areas in the question and answer period.

Judge PIANKA. Mr. Chairman——

Mr. KUCINICH. But you may wrap it up.

Judge PIANKA. The court every day has to deal with banks who have failed to file the deeds, trying to help people who are in default get out of the loans, toxic titles where the banks have dropped foreclosures and have left the liens on the properties, and it is going to take years for us to dig out from underneath these problems in Cleveland. And I found out today that these are unattended consequences, but they are consequences nonetheless that we face every year in Cleveland.

[The prepared statement of Judge Pianka follows:]

Judge Raymond L. Pianka
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Cleveland, Ohio 44113
piankar@clevelandmunicipalcourt.org

My name is Raymond L. Pianka and I am the Judge of the Housing Court in Cleveland, Ohio. I'd like to thank Congressman Kucinich for giving me the opportunity to speak with you today.

As the sole Judge of the Housing Division of the Cleveland Municipal Court, I preside over the 11,000 civil and 2,000 criminal cases filed in the Housing Court each year. As the Housing Court Judge, I observe daily in the cases before me the impact of the banking industry and the lack of regulation of it on our homes and neighborhoods.

1. Lack of regulation has reduced our neighborhoods to a financial "Wild West," with homeowners left to fend for themselves in an attempt to survive.

Cleveland is experiencing a record number of home mortgage defaults, foreclosures, bankruptcies, and failed financial deals.

The primary impact of this financial crisis, of course, is on the property owner. The homeowners, however, are not the only ones suffering as a result of the increased number of defaults and foreclosures. The collateral damage from this financial decline is felt worst in our neighborhoods. Each day, I see property owners who are told by the bank or other lenders to vacate the property at the commencement of the foreclosure action, leaving the property empty and unattended. Their neighbors, who are forced to live next door to that vacant, boarded property with high grass and weeds, stripped of its siding, contact the Court about what options they have to combat these conditions and their effects. These homeowners not only suffer the effects of living next to such blight; they suffer financial loss as well, as the value of their home decreases as a result of its proximity to the abandoned property. Next, the frustrated City councilperson contacts the Court, concerned about the abandoned property becoming a magnet for criminal activity, and producing a "domino effect" of poorly maintained housing on the rest of the neighborhood. And, I see the discouraged community development groups who stand ready to help with these properties but cannot, as they attempt to determine who, if anyone, has the authority to assist with the transfer of these properties to a responsible owner.

I have been the Housing Court Judge for over ten years. The negative impact of mortgage defaults, foreclosures and the conduct of the banking industry upon our neighborhoods never has been greater than it is today. Certainly the banks and other lenders have the right, and perhaps even the obligation, to initiate foreclosure actions when mortgages go unpaid. However, non-regulation of the industry has lead to a lack of enforcement of the basic fiduciary duties of banks and other lending institutions. The banks and other lenders must be called upon to act responsibly in both their lending and collection processes, to minimize the destructive effect of their conduct upon our neighborhoods.

2. Reduced lending by regulated banks has created a vacuum which is being filled by less reputable lenders.

Lending in Cleveland by regulated banks has dropped sharply since 1995. In 1995, 61 percent of the loans made to purchase real property were made by regulated banks. By 2005, that number dropped to 22 percent. The refusal of regulated banks to lend in Cleveland has created a vacuum which is being filled by unscrupulous sub-prime lenders, perpetrators of mortgage fraud, and irresponsible investors.

Each day in Court I am told stories by property owners with little income who have fallen prey to schemes involving the purchase of multiple properties as "investment opportunities," inflated property appraisals, and no- or low-documentation loans. Schemes of this type thrive in the current unregulated lending atmosphere of the Greater Cleveland area. While there are laws against fraudulent applications, waste, false statements of income, and deceitful appraisals, those laws largely go unenforced. While I am heartened to see the current efforts to prosecute of some of the perpetrators of these schemes, the prosecutions are coming in small numbers, slowly. Because of the time needed to investigate and pursue these cases, it is unrealistic to view prosecution as the cure for this ill; reputable lenders must be encouraged to occupy their place in the Cleveland market, and, by their presence, eliminate the market for the unscrupulous lenders who now are replacing them.

3. Lenders must be accessible to borrowers and other interested parties, and responsible in their actions toward borrowers.

One of the primary problems we face as a court is our inability to reach someone in the bank or lending institution who is both able and willing to discuss the property with the owner or the Court. It is difficult to find a contact person who, for example, can discuss negotiating a deed in lieu of foreclosure or a short sale that would cause the transfer of the title to beneficial ownership. This inability to reach the banks, coupled with the fact that a number of banks were avoiding service of process in criminal Housing Court cases, has caused the Court to halt evictions for banks with outstanding warrants until the banks appear and plead in those code violation cases.

Some of the most challenging cases in the Housing Court involve those owners who are willing to assist in the transfer of their property to new owners, but are trapped in the foreclosure process. Often, the lending institutions involved in the foreclosures are unwilling to discuss options for transfer of the property with the owner or with members of the Housing Court staff after the foreclosure has been filed. The current protracted foreclosure process has a chilling effect on the redevelopment of these properties, leaving the Court to require only that the defendants maintain the exterior of the premises for the months or years until the foreclosure is completed.

And then there are the most egregious cases – cases in which, for example, a property owner returned home from having back surgery to find she had been illegally locked out of her property by the mortgage company, or another case in which the owner was locked out of her house by the mortgage company without legal process, and without her much-needed medication.

Banks are citizens of the communities in which they do business. They must be compelled to uphold their fiduciary duties and act as good corporate citizens by working with and not against the individuals to whom they loan money.

4. Banks and other lenders must be called upon to resolve title issues. Their failure to do so results in toxic titles, further reducing property values and vacant, abandoned properties.

We have noticed a growing trend in the foreclosure area: lenders are taking actions that leave titles in non-transferable condition. For example, lenders write off debts, but keep their liens on the property, making it impossible to transfer those properties. Or, lenders initiate the foreclosure process, and then abandon it, sometimes even after judgment, having made the business decision that it will not be of sufficient financial benefit to the lender to proceed. There are even instances where a bank purchases its property for the minimum bid at Sheriff's sale, only to ask the Court to set aside the sale. This leaves the property with an unpaid mortgage, which often is significantly greater than the value of the property itself, making title to the property nearly impossible to convey.

5. Banks and other lending institutions must abandon the practice of covert ownership, and promptly file deeds to the properties they own with the County Recorder's office.

Banks and other lending institutions are the most common purchasers of properties at a Sheriff sale, the last step in the foreclosure process. It is common strategy for the entities purchasing the properties at a Sheriff sale to hold the deed to the property – not filing it with the County Recorder's office – until the property is transferred to a new purchaser. During that time, public record searches indicate that the property remains in the name of the original owner, who has lost it months or even years earlier. As a result, neither the City inspectors, community development groups, nor neighbors interested in the property can determine easily who legally is responsible for the property. This is harmful to the community, as the accuracy of property ownership records is pivotal to code enforcement. This practice is not limited to private lenders, either. We have seen cases in which the property was sold to HUD at the Sheriff sale but the deed not recorded. In one case, the property was sold to HUD, but the deed not recorded. Subsequently, the former owner was charged with housing code violations that occurred at least a year after the property had been sold to HUD, and no longer belonged to the defendant.

6. Banks must be familiar with their REO inventory and be accountable for the condition of it.

It is undeniable that banks and other lenders have programs that benefit the citizens of the greater Cleveland area. Programs for first-time buyers and those who have less than perfect credit make homeownership possible for many people. However, there is a disconnect between these good services the banks perform, and the fact that these same entities permit the properties to which they hold title to fall into disrepair. Dilapidated structures with tall grass, broken windows, and missing siding can be found in virtually every neighborhood in the City of Cleveland. Surprisingly, a great number of these are titled to, or in control of, banks and lending institutions. The City of Cleveland generates a list of those property owners who owe the City for board-ups and grass cutting. I have included a copy of that list in the packet today. As you will see, a number of those on the list are banks and other lenders. The lenders on this list are not doing even the bare minimum work on the exterior of the properties they own – and the citizens of Cleveland are paying to cut the grass! In an attempt to recoup these fees for the citizens of Cleveland, I am requiring that the payment of these fees and liens be made as a part of any plea agreement submitted to the Court.

Lenders must be compelled to maintain an inventory of the property they own, and must be held legally accountable when they fail to maintain it. As property owners, they must be held to the same standards that all property owners must meet.

7. Banks and other lenders must answer in Court when charges are filed against them or face trial in absentia.

The City is filing more criminal cases than ever before against banks and lenders for the failure to maintain properties. Lenders, however, frequently fail to appear in Court when summoned. This in large part may be due to the practice of lenders using multiple services, represented by multiple attorneys in multiple firms, making it difficult to track the status of violation notices, and pending cases. I have included in the packet a list of the banks and lenders who have criminal cases pending in Housing Court for which they have failed to appear.

In response to this failure to appear in court, the Housing Court next month will begin to hold trials of some of these corporations *in absentia*. In those cases where the Court determines that a lender has been served with notice of the violation and court date, the Clerk will enter a not guilty plea on behalf of the corporation and the case will proceed to trial with only the prosecution present. If the corporation is found guilty, they may be sentenced *in absentia* as well. While the prosecution still has the burden to prove the defendant's guilt, the community will not be made to wait indefinitely for a corporation to appear in Court for trial.

8. Banks and other lenders seeking evictions in the Housing Court must appear with "clean hands" or they will not be granted judgments in eviction cases.

Court personnel screen eviction actions filed in the Housing Court to determine whether any of the parties bringing the evictions have outstanding warrants in Housing Court criminal cases. Parties seeking eviction orders must do so with "clean hands." In Housing Court, we have interpreted that phrase to mean that a party seeking an eviction order cannot invoke the Court's jurisdiction to issue and execute on an order in the eviction action, while failing to acknowledge the jurisdiction in the same Court over the plaintiff in pending criminal cases. The number of banks and lenders seeking eviction orders, while ignoring the Court's summons in the criminal cases, has become so great that I have had to create a separate docket for those cases. Every Friday, the "bank warrant" docket is heard, with evictions placed on hold until the attorney for the bank in the eviction case is able to get authority from the client to represent the bank or lender in the criminal case and enter a plea. The eviction cases may be stayed for weeks, or even months, waiting for the attorneys to secure permission to enter a plea in the criminal case. I have included in the packet a copy of the order issued in the eviction cases, explaining the legal basis of the order.

9. The inaction of the Federal Reserve Bank in supervising and regulating Banking Institutions contributes to the financial drain on the City and the region.

No money down, no documents required, or worse – fraudulent documents prepared for signature - this is how many loans in Cleveland were made in the last decade. This is attributable in large part to the lack of regulation of banks and lenders in Cleveland. Coupled with the fact that these loans are largely made to persons with little or no formal education, it is a recipe for disaster.

It is tempting to conclude that the only individuals suffering financially under the lack of regulation of the banking industry – the withdrawal of responsible lenders from the market, fraudulent loans, covert ownership, and poorly maintained properties – are the individual borrowers directly involved in the loans. That, however, is far from true. The complete lack of oversight of the lending institutions affects every one of us in Cleveland and the surrounding region. First, of course, there are the individual houses, neglected, with titles that cannot be conveyed. They serve as magnets for criminal activity, and demoralize neighboring property owners. They also decrease the value of every other home in the neighborhood. Frequently, they become a cost to the citizens of Cleveland, who pay to board these houses, and cut the grass. The City recently saw the need to increase its annual demolition budget from two million dollars to six million dollars, money to be spent on removing from the streets the carcasses of bad investment deals – money that as a result cannot be spent on services for youth or seniors, or neighborhood development activity. The funds of investors who sank money into over-appraised properties are lost, and so cannot be funneled to investments that will not only be profitable for the investor, but will serve the community as well. Finally, the plummeting property values also virtually ensure that investors will turn to other regions or areas to invest, instead of putting their money in the Greater Cleveland area.

The mission of the Federal Reserve System is "providing the nation with a safer, more flexible, and more stable monetary and financial system." Its duties, as listed on its website, include "supervising and regulating banking institutions to ensure the safety and soundness of the nation's banking and financial system and to protect the credit rights of consumers." The Federal Reserve itself, then, acknowledges that it has a duty to supervise and regulate banking institutions protecting the rights of consumers. The Federal Reserve has turned a blind eye in the Cleveland area to these duties. It has failed to require the banks and lending institutions, through the promulgation of rules and enforcement of existing laws, and it has failed to protect the rights of consumers by requiring all banks and lenders to act as responsible corporate citizens. The Federal Reserve, through its inaction, has become a significant part of the problem, and not the solution.

I appreciate the opportunity to offer my testimony to you today. I would be happy to answer any questions you may have.

Judge Raymond L. Pianka

Attachments

Cleveland Housing Court Bank/Lender Warrant Capias List

"Clean Hands" Judgment Entry referring case to Bank Warrant Docket

City of Cleveland Special Assessment Certification List – Vacant Lot Maintenance Liens (Corporations List)

City of Cleveland Certification List - Board-Up Liens 2006 (Corporations List)

City of Cleveland Special Assessment Certification List –Demolition Liens

Cleveland Housing Court
Warrant / Capias
Bank / Lender List

Current as of 5-4-07

Case #	Name of Bank	Statute	Site Address	Court date
2006CRB042430	1ST TENNESSEE BANK,	BHV	11101 LAROSE	1/25/2007
2004CRB009045	ACCORD FINANCIAL SER, VICES	HEALTHT	15404 KINSMAN	6/9/2004
2001CRB049093	ACCORD FINANCIAL, SERVICES	HEALTHT	7208 ST. CLAIR	3/20/2002
2003CRB010107	ADVANTA NATIONAL, BANK	BHV	2166 E 70TH ST	5/8/2003
2007CRB010427	BANK NA, WELLS FARGO	BCV	12005 REVERE AVE,.	4/19/2007
2005CRB006033	BNC MORTGAGE INC.,	BHV	15010 CARDINAL	3/24/2005
2007CRB007801	CENTEX HOME EQUITY C, O LLC	HCV	16114 harvard ave	4/19/2007
2007CRB001156	CHASE BANK, J P MORGAN	HEALTHT	6812 GERTRUDE	3/28/2007
2007CRB008960	CHASE BANK, J.P. MORGAN	BCV	3086 W 111 ST.	4/17/2007
2003CRB039532	CONSECO BANK INC.,, CCC	BHV	2037 W.96	11/18/2003
2004CRB021114	DBA BENEFICIAL MORTG, AGE CO.	HCV	2917 SEARSDALE	8/24/2004
2006CRB009798	DELTA FUNDING CORP.,	BCT	1385 E.84	4/26/2006
2006CRB009799	DELTA FUNDING CORP.,	BCT	1385 E.84	4/26/2006
2007CRB010434	DEUTSCHE BANK, NATIONAL TRUSTE	BCV	4085 E 127TH	4/19/2007
2007CRB010435	DOLLAR BANK,	BCV	4137 E 120TH ST.	4/19/2007
2003CRB009072	EQUI FIRST CORPORATI,	HCV	7908 EVE AVE.	5/20/2003
2006CRB044041	EQUITY ONE,	BHV	4324 E.119	11/30/2006
2004CRB028444	FAITH COMMUNITY UNIT, ED CREDIT UNION	551.04	3553 3555 E 144	11/3/2004
2007CRB002391	FARGO BANK, WELLS	551.04	9818 ROSEHILL	4/11/2007
2003CRB021146	FIDELITY FUNDING, MORTGAGE CORP.	BCV	15713-15 DAMON AVE	9/11/2003
2007CRB000321	FINANCE CORP., HOUSEHOLD	BCV	10006 GAYLORD AVE.	3/22/2007
2007CRB002596	FINANCE CORPORATION, HOUSEHOLD	BCV	4300 E 124 ST.	3/8/2007
2003CRB021109	FIRST MERIT BANK TRS,	BCT	15913 DAMON	7/17/2003
2005CRB009820	FIRST NATIONAL MGMT.,	BHV	19102 Shawnee Ave.	8/4/2005
2003CRB022757	FORD CONSUMER FINANC, E CO.	BCV	1043 EST 71ST ST	10/27/2006
2007CRB000323	HOME LOAN, COUNTRYWIDE	BCV	11911 MINOR	3/22/2007
2007CRB007804	HOMEQ SERVICING CORP,	HCV	12002 lenacrave ave	3/29/2007
2006CRB044024	INDYMAC FSB,	BHV	3700 E.118	11/30/2006
2003CRB045761	INTERBAY FUNDING, LLC	HEALTH	1829 COLONADE	2/25/2004
2007CRB010675	JP MORGAN CHASE BANK,	BCV	4218 E 114 ST.	4/26/2007
2007CRB010656	JP MORGAN CHASE, BANK	BCV	12816 CRENNELL AVE.	4/19/2007
2005CRB014975	KRYSTAL KLEATZ MORTG, AGE	BCV	3129 W 46	3/2/2007
2003CRB024569	MERITAGE MORT. CORP.,	BCT	15309 LUCKNOW AVE	9/18/2003
2007CRB000322	MORTGAGE, WM SPECIALTY	BCV	12201 LENACRAVE AVE.	3/22/2007
2006CRB014537	MORTY LENDERS NET., USA	551.07	9809 NELSON	6/28/2006
2007CRB005057	MUTUAL CORP. SERVICE, WASHINGTON	BCV	3464 W 119	5/1/2007

Cleveland Housing Court
Warrant / Capias
Bank / Lender List

Current as of 5-4-07

2007CRB010424	NATIONAL TRUST, DEUTSHCE	BCV	3760 EAST 126	4/19/2007
2000CRB016353	NATIONS CREDIT FINAN, CIAL SER CORP	BHV	1074 E 147 ST	5/11/2000
2006CRB029992	NETWORK, MORTGAGE LENDER	551.07	10605 PARKVIEW	11/29/2006
2006CRB044042	OCWEN NAT'L BANK,	BHV	12718 HOLBORN	11/30/2006
2002CRB050258	ONE STOP MORTGAGE, INC	BCV	2998 E 65 ST	1/8/2003
2005CRB002168	REPUBLIC SAVINGS, BANK MTG. CO.	BHV	849 E.141	5/19/2005
2006CRB042444	SECURITY PACIFIC, NATIONAL	BHV	4107 E.78	2/22/2007
2002CRB001048	THE PROVIDENT BANK,	BCV	1617 auburn	1/29/2002
2002CRB046596	TMS MORTAGE INC,	BCV	7504 LAWN	11/27/2002
2002CRB045574	TMS MORTAGE INC.,	BCV	7504 LAWN AVE	2/18/2003
2002CRB045573	TRANSAMERICA REAL, ESTATE	BCV	7504 LAWN	11/27/2002
2003CRB046239	TRANSAMERICA REAL, ESTATE	BCV	967 ADDISON RD	12/11/2003
2003CRB048160	TRANSAMERICA REAL, ESTATE	BCV	967 ADDISON RD	1/15/2004
2005CRB012435	TRANSWEST FINANCIAL, LLC	551.04	2237 E 79TH STREET	7/27/2005
2003CRB038035	TRUST CO NA, KEY	BCV	6027 ST CLAIR	2/10/2005
2002CRB031302	TRUST, BANKERS	BCV	963 MAUD AVE	11/7/2002
2006CRB034988	WACHOVIA BANK,	551.04	4121 E 116	12/13/2006

CLEVELAND MUNICIPAL COURT
HOUSING DIVISION
CUYAHOGA COUNTY, OHIO

____________________ DATE: ____________________

Plaintiff(s)

-VS- CASE NO.: ____________________

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Defendant(s) JUDGMENT ENTRY

Upon review of the Magistrate's Decision, the Court observes that plaintiff in this matter, while seeking restitution of the property in the instant case, has outstanding warrants in one or more criminal cases in this Court. Consequently, plaintiff seeks to invoke this Court's jurisdiction, and have the Court execute on an order in the eviction action, while failing to acknowledge the jurisdiction in the same Court over the plaintiff in pending criminal cases.

Restitution is available as an equitable remedy "where *** property identified as belonging in good conscience to the plaintiff could clearly be traced to *** property in the defendant's possession." *Santos v. Ohio Bur. of Workers' Comp.* (2004), 101 Ohio St.3d 74, 77, 801 N.E.2d 441, 445.

The maxim that "he who comes into equity must come with clean hands" requires that the party seeking equitable relief not be guilty of reprehensible conduct. *Barone v. Barone* (11th Dist.) 2005-Ohio-4479. A party will not obtain equitable relief if the injury incurred by such party is "chargeable to his own wrong." *Piatt v. Smith* (1861), 12 Ohio St. 561, 570.

This case is set for status hearing on ____________________ at **2:30 p.m.** in **Courtroom 13B** to weigh the equities, and determine whether plaintiff has come before this Court with clean hands, while attempting to pursue an equitable remedy. Ruling on the first cause of action is held in abeyance pending the status hearing. A representative of plaintiff is ordered to attend. That representative must be qualified to discuss plaintiff's position in both the criminal case(s) pending in this Court, and the instant action. Appearance by counsel alone will not suffice.

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JUDGE RAYMOND L. PIANKA
HOUSING DIVISION

Special Assessment Certification List - Vacant Lot Maintenance Liens (Corporations List)
Section 613.15 of the Codified Ordinances of the City of Cleveland
The following list of Special Assessment charges is hereby certified for collection in one (1) installment to be collected in the Tax Year 2006

P.P.N.	PARCEL ADDRESS	PROPERTY OWNER	LIEN
016-16-069	3390 W 59 ST	1416 PLAINFIELD RD.	$ 151.20
119-12-059	N.W.C. OF E.101 & NEWTON	1862 CORPORATION	$ 4,662.00
114-23-013	18805 NEFF	18805 NEFF LLC	$ 16,374.12
119-28-052	2228 E 83	2 FACE HOME REMODELING	$ 612.50
007-05-056	2036 W 38 ST	2036 W.38TH ST. LAND TRUST	$ 450.80
006-23-080	2209 W 53	2211 W 53RD STREET	$ 369.60
135-18-145	10 PRINCE	2324 LAKESIDE LTD.	$ 372.40
125-05-057	3068 E 65TH ST	3030 EAST 63RD LLC	$ 602.00
016-25-094	3650 W 46	3654 W 46 ST LAND	$ 311.16
115-05-021	14319 SARANAC	3ZFD ZIGGYS FURNITURE	$ 245.00
013-03-035	W 67 & BARBERTON	4 ALCOM LLC	$ 287.98
104-14-045	5510 SUPERIOR	5600 SUPERIOR CORP	$ 296.24
003-09-066	W 58 & TILLMAN	5700 LTD LLC	$ 316.48
125-12-008	6509 NEWMAN	6505 NEWMAN STREET	$ 349.68
106-14-015	E. 66 & HOUGH	6527 HOUGH CORPORATION	$ 415.38
116-14-101	7 E. 163	732 E. 163rd Street	$ 345.80
105-14-080	978 E. 69	8MP-MATHEW PLECNIK	$ 372.40
001-29-023	9605 MADISON	A & B COMPANY	$ 257.74
139-12-100	3704 E 151ST ST	A NEVADA LAND SERVANT, INC	$ 372.40
136-05-095	11010 DOVE	A&A PAVING & CEMENT LLC	$ 350.36
143-10-001	LEE & MILES	A.E.M.M. PROPERTIES	$ 655.28
139-01-017	3540 E. 144	A.J. 3M LTD	$ 252.00
121-32-078	11005 NOTRE DAME	A.J. 3M LTD.	$ 585.20
126-05-108	8621 Folsom	Aalaska Seaboard Par	$ 417.20
103-22-009	3712 CEDAR	AAR INVESTMENTS	$ 490.00
118-29-028	SOUTH OF 2354 E.63	AAR INVESTMENTS	$ 420.00
103-25-046	2200 E 49	ABECO AYAD INC	$ 1,400.00
113-04-021	17653 LAKEPORT AVE	ABERDEEN INVESTMENTS	$ 700.00
135-03-116	10210 BENHAM	ACCTS PAYABLE MIL - MILLENNIA HOUSING	$ 283.22
136-02-092	3916 E 99TH ST	ACCTS PAYABLE MIL - MILLENNIA HOUSING	$ 350.00
109-23-107	E. 111 & TACOMA	ADM OF VET AFFAIRS	$ 717.18
016-13-006	324 W 50	ADM VETERANS AFFAIR	$ 700.00
120-10-066	BETWEEN 1458/1472 E.111	ADMIN OF V.A.	$ 991.20
110-05-030	684 E. 123	Adminstration of V	$ 203.00
138-15-081	4232 E 124	ADVANTAGE RENOVATIONS	$ 378.00
110-06-041	607 E 125TH ST	ADW & ASSOCIATES	$ 352.80
002-35-195	47 BRIDGE	AFFORD INC	$ 277.20

002-35-196	470 BRIDGE	AFFORD INC	$	277.20
123-21-163	S.E.C. OF FINN & OTOKAR	AGENCY HOMES, INC.	$	283.92
134-05-074	4110 E. 81	Agency Renov Comp	$	1,243.20
115-15-018	14708 WEMPLE	AGENCY RENOVATION	$	655.20
118-34-101	E.76	AGENCY RENOVATION	$	230.30
124-12-059	N.E.C. OF GRISWOLD & KINSMAN	AGENCY RENOVATION	$	655.64
126-06-011	E. 86th	Agency Renovation	$	221.00
136-15-003	9910 Harvard	Agency Renovation	$	669.90
123-19-067	2964 NURSERY	AGENCY RENOVATION CO.	$	307.24
124-24-020	2767 E 73RD ST	AGENCY RENOVATION CO.	$	165.20
121-20-125	10625 ARTHUR	AGENCY RENOVATION COMP	$	616.00
123-31-057	4918 MCBRIDE	AGM INVESTMENTS, LLC	$	247.80
135-13-157	E. 116 BENHAM	AIAT OF OHIO	$	4,230.00
109-24-035	1235 PARKWOOD	AIRDOMBAE MANAGEMENT	$	285.60
139-03-075	3798 E 143	AIRDOMBAE MANAGEMENT & CONSULTING	$	280.00
127-01-039	E. 79 ST. & GARD VALLEY	ALAN W. KOEHLER ATTY	$	588.00
016-19-088	3439 W. 54TH ST	ALBI PROPERTIES, LLC	$	537.60
116-15-053	E 171 & ST CLAIR	ALL CITY RECYCLING	$	811.30
113-24-003	1256 E 172ND ST	ALLEN GRAY PROPERTIES LLC	$	266.00
143-16-055	4693 E 174TH ST	AL'S CONSTRUCTION LTD	$	336.00
115-11-032	920 E 150	AMERICAN HOUSING TR	$	389.20
137-18-108	13505 SVEC	AMERICAN RESIDENTIAL	$	411.60
124-25-015	6920 COLFAX	AMERIQUEST FUNDING II	$	525.00
016-12-163	4636 STORER	AMERIQUEST FUNDING TO RED SUBSIDIARY	$	291.20
117-12-010	1826 COLONADE	AMERIQUEST FUNDING TO REOSUBSIDIARY	$	389.20
123-14-093	4921 PRAHA	ANGELS G N	$	585.90
006-24-050	3020 W. 47	ANGIO PARTNERSHIP	$	350.00
120-09-105	11310 ITASCA	ASCENDTECH MANAGEMENT INC.	$	670.32
109-21-034	LINN & PRIMROSE	ASHBURY HOMES DEVELOP	$	727.68
102-39-010	3834 PAYNE	ASIA PLAZA CO	$	529.20
106-01-010	E 68 & SUPERIOR	B & F ENTERPRISES	$	1,012.20
109-09-060	10312 SOUTH BLVD	BANC ONE FINANCIAL	$	364.00
139-03-080	3774 E 143RD ST	BANK OF NEW YORK, TRUSTEE	$	280.00
138-16-042	12900 BEACHWOOD	BANK OF NY	$	397.32
105-29-043	7225 LOCKYEAR	BANK OF WACHOVIA	$	282.10
107-05-013	8014 CRUMB	BANK ONE	$	231.00
117-13-071	1830 MANNERING	BANK ONE NATIONAL ASSN.	$	366.80
130-13-047	3469 E. 143RD ST	BANK ONE NATIONAL ASSOCIATION	$	369.60
109-04-031	PARKGATE	BANKERS OF CALIFORNIA	$	616.00
017-04-031	3159 W 88 ST	BANKERS TRUST OF CALIFORNIA	$	303.80
124-12-056	WEST OF 5617 KINSMAN	BANKS BROS., INC.	$	690.92
104-20-042	570 QUIMBY	BAPTIST CHURCH TRUE	$	784.00
004-09-040	W. 11 & FAIRFIELD	BARCLAYS TREMONT, I	$	228.76

004-09-041	W. 11 & FAIRFIELD	BARCLAYS TREMONT, I	$	270.90
004-09-042	W. 11 & FAIRFIELD	BARCLAYS TREMONT, I	$	198.66
107-14-097	136 E. 88	BARRETT MAINE CORP.	$	490.00
124-05-045	N.E.C. OF E.57 & OUTHWAITE	BASSWOOD PARTNERS	$	217.00
124-05-046	N.E.C. OF E.57 & OUTHWAITE	BASSWOOD PARTNERS	$	302.40
111-22-130	13700 RUGBY	BCGS, LLC VORP.	$	735.00
103-25-047	2200 E 49	BD OF ED CLEVE SCHOOL	$	10,753.26
127-24-177	3442 E 103RD ST	BEAL BANK SSB	$	336.00
124-28-049	E.75 & RAWLINGS	BELL, BURTEN, CARR DEV.	$	1,260.00
124-28-056	7521 RAWLINGS	BELL, BURTEN, CARR DEV.	$	840.00
125-33-045	3463 E. 70TH ST	BENDER PROPERTY MGM	$	350.00
117-16-088	1847 GRANTHAM	BĖTTYGUARD (EVA)	$	672.00
124-12-079	EAST OF 5812 GRISWOLD	BEULAH BAPTIST CHURCH	$	245.00
103-22-016	E 39 & CEDAR	BFR PARTNERS	$	262.50
103-22-025	E 39 & CENTRAL	BFR PARTNERS	$	348.82
103-22-027	E 39 & CENTRAL	BFR PARTNERS CO	$	186.20
103-22-036	E 38 & CENTRAL	BFR PARTNERS CO	$	967.12
103-22-037	E 38 & CENTRAL	BFR PARTNERS CO	$	280.00
103-22-127	E 38 & CENTRAL	BFR PARTNERS CO	$	317.10
103-22-132	E 38 & CENTRAL	BFR PARTNERS CO	$	1,450.68
103-22-152	E 38 & CENTRAL	BFR PARTNERS CO	$	144.20
103-22-164	E 38	BFR PARTNERS CO	$	511.56
103-30-051	E 37 & COMM COLLEGE	BFR PARTNERS CO	$	228.90
103-30-106	E 37 & COMM COLLEGE	BFR PARTNERS CO	$	471.24
119-21-026	8003/05 CEDAR	BILL CROCKETT MINISTRIES	$	2,744.50
107-02-007	8012 ST. CLAIR	BLADE PROPERTIES, IN	$	1,260.00
107-06-030	1100 ANSEL	BOARD OF ED OF CLEVE MUNICIPAL SCHOOL	$	288.76
110-01-040	689 Lakeview	Board of Education	$	30,492.00
107-06-033	1118 ANSEL	BOARD OF EDUCATION OF CLEVELAND	$	1,725.92
136-15-124	E. 100 & Pratt	Boatmen's Natl Mtge	$	840.00
135-07-009	UNION & E. 105	BODY OF CHRIST ASSEMBLY	$	350.00
112-25-068	15101 THAMES	BP AMERICA	$	1,590.40
003-10-013	5014 HERMAN	BREYERWOOD HOMES	$	462.00
131-36-099	3556 E 59--(E.59 & HUSS)	BROADWAY AREA HOUSING	$	336.00
107-16-161	8711 HARKNESS	BRONZEVILLE HOMES	$	1,041.60
106-03-006	ADDISON & SUPERIOR	BRUH REALTY CO	$	350.00
139-09-010	3647 E. 144	BRYCE PETERS FINANC	$	597.80
127-18-064	10409 Elliot	Bryce Peters Finance	$	504.00
107-09-068	1246/1230 E. 82	Bryce Peters Financial	$	175.56
120-11-074	E.123	BRYCE PETERS FINANCIAL	$	585.90
105-28-117	11 E 72	BTN LLC	$	687.40
128-01-013	WOODHILL & GRANDVIE	BUCKEYE AREA DEVELO	$	245.00
128-02-060	10708 CRESTWOOD	BUCKEYE AREA DEVELO	$	504.00

128-03-016	112 WOODLAND	BUCKEYE AREA DEVELO	$	756.00
128-03-107	2618 E. 111	BUCKEYE AREA DEVELO	$	350.00
128-03-120	E. 110 & SHALE	BUCKEYE AREA DEVELO	$	364.00
128-01-011	Woodhill & Grandview	Buckeye Area Development	$	865.20
128-01-012	Woodhill & Grandview	Buckeye Area Development	$	567.72
128-01-016	N.E.C of Woodhill Shale	Buckeye Area Development	$	698.60
128-01-017	Woodhill & Shale	Buckeye Area Development	$	1,768.48
103-21-012	3306 CEDAR	BURTEN BELL CARR	$	739.20
103-21-013	E 35 & CEDAR	BURTEN BELL CARR	$	1,108.80
103-21-014	E 35 & CEDAR	BURTEN BELL CARR	$	827.96
103-22-017	E & CEDAR	BURTEN BELL CARR	$	8,708.94
103-22-071	2176 E 37	BURTEN BELL CARR	$	655.20
103-23-048	2239 E 39	BURTEN BELL CARR	$	530.54
103-23-049	2239 E 39	BURTEN BELL CARR	$	1,064.00
103-23-054	E 40 & CE	BURTEN BELL CARR	$	957.60
103-23-057	E 40 & CE	BURTEN BELL CARR	$	817.96
103-23-058	E 40 & CE	BURTEN BELL CARR	$	670.82
103-23-059	E 40 & CE	BURTEN BELL CARR	$	652.06
103-30-050	E & COMMUNITY COLLEGE	BURTEN BELL CARR	$	839.40
103-30-052	E 37 & COMM COLLEGE	BURTEN BELL CARR	$	1,626.24
103-30-053	E 37 & COMM COLLEGE	BURTEN BELL CARR	$	1,663.20
103-30-107	E 37 & COMM COLLEGE	BURTEN BELL CARR	$	471.24
103-31-036	E 39 & COMM COLLEGE	BURTEN BELL CARR	$	1,552.04
103-31-037	E 38 & COMM COLLEGE	BURTEN BELL CARR	$	905.52
103-31-038	E 38 & COMM COLLEGE	BURTEN BELL CARR	$	1,529.88
118-22-131	2206 E. 68	BURTEN, BELL, CARR	$	627.20
118-33-056	E.71 & CHAMBERLAIN	BURTEN, BELL, CARR	$	1,750.00
118-33-057	E.71 & CHAMBERLAIN	BURTEN, BELL, CARR	$	787.50
118-33-058	E.71	BURTEN, BELL, CARR	$	777.00
124-25-045	N.E.C. OF E.69 & KINSMAN	BURTEN, BELL, CARR	$	304.64
127-10-012	9022 KINSMAN	BURTON BELL CARR	$	315.00
119-30-133	N.E.C. OF E.84 & QUINCY	BURTON ENTERPRISES	$	306.60
016-11-157	314 W 56	C & G EXECUTIVE	$	350.00
115-08-011	E. 152 & CARDINAL	C & P PROPERTIES	$	1,254.40
130-01-161	1172 Imperial	C&H Properties Inc	$	327.60
127-16-102	9406 Easton	C. Freeman Company	$	1,162.98
133-07-015	E. 81 & Aetna	C.E. I	$	728.00
134-05-042	E. 81	C.E.I	$	869.06
107-08-102	122 E. 80	C.M.H.A.	$	797.44
125-19-026	NORTH OF 3003 E.77	C.M.H.A.	$	307.10
136-18-024	E. 113 & HARVARD	C.M.H.A.	$	476.00
105-28-021	118 E. 71	C/O HOUGH AREA DEV.	$	1,524.60
009-10-042	3308 BROADVIEW	CALA INC	$	600.18

133-24-025	9215 CAMBRIDGE	CAMBRIDGE AVENUE RE	$	319.20
110-02-017	617 E 113	CEDARVIEW DEVELOPMENT	$	294.00
139-01-009	14306 KINSMAN	CEDARVIEW DEVELOPMENT INC	$	683.20
023-14-013	W 130	CEI	$	6,074.18
028-04-063	4472 W 167	CEI	$	279.72
134-05-078	4148 E 81 (SOUTH OF) ST	CEI CO./ FIRST ENERGY CO.	$	633.30
132-01-031	6215 KENYON	CENTEX HOME EQUITY	$	460.60
117-32-006	2155 GREEN RD	CHAGRIN INVESTMENT PROPERTIES	$	560.00
103-24-081	2244 E 55	CHAMUK CORP	$	490.00
143-07-075	17102 PALDA	CHARTER ONE BANK	$	336.00
115-06-063	917 E. 146	CHASE MANHATTAN BANK	$	784.00
104-22-025	5309 LUTHER	CHASE MANHATTEN	$	735.00
118-23-055	2186 E 70	CHICAGO VICTORY CHURCH	$	289.80
106-22-051	E. 85	CHN-CLEVE HOUSING N	$	1,842.12
107-05-065	KORMAN	CHN-CLEVE HOUSING N	$	289.10
124-19-077	5912 GRISWOLD	CHRIST LEARNING CENTER	$	412.02
106-18-024	E. 79th and Evereet	Christ Temple Apost	$	102.34
106-18-091	E. 79 TO E. 80 PL	CHRIST TEMPLE APOST	$	378.00
117-03-045	1763 CLARKSTONE	CHRISTIAN FORECLOSURE NETWORK	$	268.80
112-03-026	13721 Kelso	Christiana Bank & T	$	672.00
135-06-112	E. 95 & SANDUSKY	CHRYSLER FIRST FINA	$	332.08
135-16-107	E. 95 & SANDUSKY	CHRYSLER FIRST FINA	$	700.00
103-21-035	EAST 36 & CHESTER	CHURCH ALPHA AMEGA	$	420.00
110-07-094	E. 125 & BRACKLAND	CHURCH CHRIST TEMPLE	$	882.00
103-22-051	2215 E 36	CHURCH OF GOD AND S	$	672.00
103-22-084	223 E 37	CHURCH OF GOD AND S	$	247.52
113-14-087	715 S. METROPOLITAN AVE	CIT GROUP/CONSUMER FINANCE	$	353.50
127-22-095	9508 RAYMOND	CITI FINANCIAL MORTGAGE COMPANY	$	344.40
107-20-036	1615 HOLYROOD	CITIBANK	$	327.60
134-13-022	7906 BEMAN	CITIBANK, NA TRUSTEE	$	343.00
105-33-045	1270 E. 79TH	CITY ENERGY, LIC.	$	181.30
110-25-027	LAKEVIEW & SAYWELL	CLARISSA, INC.	$	1,050.00
127-04-014	3471 E. 78	Cleve Elec Illum Co.	$	770.00
106-07-107	1432 E. 84	CLEVE NEW CONTRUCTION	$	856.80
136-16-047	E. 104 & Miles	Cleve. Clinic Foundation	$	254.80
119-20-008	E.85 & CEDAR	CLEVELAND CLINIC FOUNDATION	$	334.82
121-20-005	10564 CEDAR	CLEVELAND CLINIC FOUNDATION	$	490.00
134-06-019	41 E. 82	Cleveland Electric	$	3,823.68
136-20-097	4276 E 94TH ST	CLEVELAND ELECTRIC ILLUMINATING CO	$	426.30
127-15-071	9516 CARTON RD (WEST OF)	CLEVELAND HOLMES	$	283.50
109-24-047	1256/1248 E. 111th	Cleveland Housing	$	282.80
110-13-071	EDMONTON	CLEVELAND HOUSING	$	631.40
110-19-070	11219 HOPKINS	CLEVELAND HOUSING	$	408.80

113-20-062	1631 TRALFALGAR	CLEVELAND HOUSING	$	784.00
115-04-048	1048 E 141	CLEVELAND HOUSING	$	646.80
139-05-065	1421 BENWOOD	CLEVELAND HOUSING	$	700.00
142-27-046	15113 FLORIDA	CLEVELAND HOUSING	$	419.50
142-27-154	E. 153 LINCOLN	CLEVELAND HOUSING	$	420.00
002-33-047	1843 W 54	CLEVELAND HOUSING	$	711.48
007-20-007	3540 ERIN	CLEVELAND HOUSING	$	427.00
015-10-153	334 W 31	CLEVELAND HOUSING	$	358.40
105-25-014	1179 ADDISON	CLEVELAND HOUSING	$	448.56
105-26-093	E 69 & BECKER	CLEVELAND HOUSING	$	107.10
104-08-074	1401 E 45TH ST	CLEVELAND HOUSING INC.	$	210.00
105-25-030	117 E. 71	CLEVELAND HOUSING N	$	416.50
106-22-132	E. 84	CLEVELAND HOUSING N	$	850.50
107-05-006	CRUMB	CLEVELAND HOUSING N	$	462.00
107-08-109	1241/1256 E. 80	Cleveland Housing N	$	394.80
125-27-006	5698 Hamlet	Cleveland Housing N	$	718.20
125-36-078	3422 E. 76th	Cleveland Housing N	$	288.76
137-02-132	3 E. 120	CLEVELAND HOUSING N	$	212.80
137-02-133	350 E. 120	CLEVELAND HOUSING N	$	212.80
139-02-184	3680 E. 144	CLEVELAND HOUSING N	$	294.00
005-26-018	2105 W 98 ST	CLEVELAND HOUSING NETWORK	$	428.40
107-09-049	E. 81 & Superior	Cleveland Housing Network	$	1,219.68
108-02-054	683 E 92 ST	CLEVELAND HOUSING NETWORK	$	349.38
108-04-015	E. & LOWELL	CLEVELAND HOUSING NETWORK	$	341.46
108-09-024	N/O 741 EAST 99TH	CLEVELAND HOUSING NETWORK	$	350.00
108-29-069	1071 HELENA	CLEVELAND HOUSING NETWORK	$	588.00
109-08-145	9925 WESTCHESTER	CLEVELAND HOUSING NETWORK	$	378.00
110-27-093	12332 CHESTERFIELD	CLEVELAND HOUSING NETWORK	$	313.60
112-23-109	522 E 143	CLEVELAND HOUSING NETWORK	$	359.38
113-14-053	16002 CORSICA	CLEVELAND HOUSING NETWORK	$	537.32
118-33-061	CHAMBERLAIN	CLEVELAND HOUSING NETWORK	$	448.00
118-33-064	CHAMBERLAIN	CLEVELAND HOUSING NETWORK	$	896.00
118-33-065	CHAMBERLAIN	CLEVELAND HOUSING NETWORK	$	806.40
118-33-073	7216 CHAMBERLAIN	CLEVELAND HOUSING NETWORK	$	672.00
118-33-074	CHAMBERLAIN	CLEVELAND HOUSING NETWORK	$	716.80
118-33-080	7216 CHAMBERLAIN	CLEVELAND HOUSING NETWORK	$	609.28
118-33-081	S.E.C. OF CHAMBERLAIN & PARKER C'	CLEVELAND HOUSING NETWORK	$	555.52
119-05-085	1836 E 87 ST	CLEVELAND HOUSING NETWORK	$	289.10
119-09-031	1792 E.90	CLEVELAND HOUSING NETWORK	$	280.00
119-09-044	E.90	CLEVELAND HOUSING NETWORK	$	998.20
119-27-022	E.80 & GOLDEN	CLEVELAND HOUSING NETWORK	$	571.20
120-03-109	E.111	CLEVELAND HOUSING NETWORK	$	616.00
123-19-122	4683 GAKKY	CLEVELAND HOUSING NETWORK	$	42.00

124-30-037	S.E.C. OF HILLSIDE & MINNIE	CLEVELAND HOUSING NETWORK	$	588.00
125-12-066	WEST OF 6553 NEWMAN	CLEVELAND HOUSING NETWORK	$	931.00
125-19-062	2995 E 73 ST	CLEVELAND HOUSING NETWORK	$	177.46
125-27-007	5706 HAMLET	CLEVELAND HOUSING NETWORK	$	239.40
125-30-012	3347 E 65 ST	CLEVELAND HOUSING NETWORK	$	350.00
126-04-073	2557 E 84	CLEVELAND HOUSING NETWORK	$	364.00
127-17-048	9811 BESSEMER AVE	CLEVELAND HOUSING NETWORK	$	298.90
130-02-014	NWC OF E. 117 & KINSMAN	CLEVELAND HOUSING NETWORK	$	778.24
131-20-084	3436 E 52 ST	CLEVELAND HOUSING NETWORK	$	315.00
133-05-078	E. 78 & LOMA CT	CLEVELAND HOUSING NETWORK	$	1,584.24
135-02-120	ANDERSON	CLEVELAND HOUSING NETWORK	$	490.00
135-13-067	3610 E. 113	CLEVELAND HOUSING NETWORK	$	327.60
136-15-021	10003 GAYLORD	CLEVELAND HOUSING NETWORK	$	507.50
139-05-101	EDGEWOOD	CLEVELAND HOUSING NETWORK	$	616.00
142-01-069	E. 143	CLEVELAND HOUSING NETWORK	$	700.00
142-02-005	E. 141	CLEVELAND HOUSING NETWORK	$	700.00
142-27-153	SWC OF E. 153 & LINCOLN	CLEVELAND HOUSING NETWORK	$	627.70
006-02-060	2161 W 83RD ST	CLEVELAND HOUSING NETWORK, INC	$	414.40
006-09-107	6615 GUTHRIE	CLEVELAND HOUSING NETWORK, INC	$	245.00
008-11-099	1802 BUHRER	CLEVELAND HOUSING NETWORK, INC	$	330.34
012-04-133	4811 GIFFORD	CLEVELAND HOUSING NETWORK, INC	$	453.60
015-02-019	4012 SACKETT	CLEVELAND HOUSING NETWORK, INC	$	405.52
016-09-192	3301 W 58TH ST	CLEVELAND HOUSING NETWORK, INC	$	220.50
113-24-124	1263 E 170TH ST	CLEVELAND HOUSING NETWORK, INC	$	280.00
115-06-061	923 E 146TH ST	CLEVELAND HOUSING NETWORK, INC	$	392.00
123-19-111	4473 DOUSE	CLEVELAND HOUSING NETWORK, INC	$	423.58
125-33-061	3434 E 70TH ST	CLEVELAND HOUSING NETWORK, INC	$	350.00
125-34-078	3420 E 73 ST	CLEVELAND HOUSING NETWORK, INC	$	220.50
125-35-014	3453 E 71 ST	CLEVELAND HOUSING NETWORK, INC	$	257.26
125-35-090	7212 IVY	CLEVELAND HOUSING NETWORK, INC	$	305.20
127-16-094	9504 EASTON AVE	CLEVELAND HOUSING NETWORK, INC	$	347.90
131-23-047	5318 DOLLOFF	CLEVELAND HOUSING NETWORK, INC	$	173.26
135-08-164	3615 E 103RD ST	CLEVELAND HOUSING NETWORK, INC	$	220.50
136-13-086	9317 PRATT	CLEVELAND HOUSING NETWORK, INC	$	554.40
136-26-078	11312 KEPLER CT	CLEVELAND HOUSING NETWORK, INC	$	345.80
139-07-080	3859 E. 146	CLEVELAND HOUSING NETWORK, INC	$	408.80
004-18-057	W. 6 & RAILWAY	CLEVELAND LOFTD, INC.	$	728.00
104-14-049	5809 E 58TH & SUPERIOR	CLEVELAND METRO HOUSING AUTHORITY	$	692.30
107-06-042	8509 KOSCIUSKO-(EAST OF)	CLEVELAND MUNI SCHOOL DISTRICT	$	273.98
130-08-037	NEC OF E. 132 & KINSMAN	CLEVELAND NEIGHBORH	$	335.38
107-06-057	E. 82th St. & Sowinski	Cleveland New Const	$	257.26
107-06-080	NWC OF E. 82 & SOWINSKI	CLEVELAND NEW CONST	$	661.50
107-06-106	8408 Pulasky	Cleveland New Const	$	266.00

107-06-107	84 Pulaski	Cleveland New Const	$	350.00
107-06-111	8408 PULASKI	CLEVELAND NEW CONST	$	420.00
107-09-138	1195/1241 E. 83	Cleveland New Const	$	877.80
127-11-127	8905 MARSHALL	CLEVELAND NEW CONSTRUCTION	$	327.60
128-05-003	Woodhill & Rosehill	Cleveland New Homes	$	1,154.44
128-05-004	Rosehill & Woodhill	Cleveland New Homes	$	875.00
128-05-005	Woodhill & Rosehill	Cleveland New Homes	$	437.50
026-28-032	4528 ROCKY RIVER	CLEVELAND POLICE DEPT	$	442.68
126-06-043	8618 Captial	Cleveland Renovation	$	303.80
018-04-025	3452 W 122ND ST	CLEVELAND RENOVATION GROUP LLC	$	257.26
141-19-075	17514 HOLLY HILL	CLEVELAND RENOVATION GROUP LLC	$	392.00
001-23-008	1521 W 117	CMG REALTY LTD CO	$	798.00
124-04-030	E. 78	CMHA	$	12,148.00
008-07-057	3138 W 16TH ST	CMS PROPERTIES, INC.	$	298.76
113-01-006	16015 LAKESHORE BLVD	CNL APF PARTNERS LP	$	1,540.00
113-17-011	16300 LAKESHORE BLVD	COC	$	18,295.20
121-20-159	10629 HUDSON	COCITA PROPERTIES	$	226.80
121-20-160	HUDSON	COCITA PROPERTIES	$	793.80
121-20-165	10606 HUDSON	COCITA PROPERTIES	$	177.94
121-20-166	EAST OF 10606 HUDSON	COCITA PROPERTIES	$	200.90
105-28-034	HECKER	COHAB INC	$	1,274.00
104-22-024	5309 LUTHER	COLLINWOOD ARTS COU	$	928.62
115-02-016	898 E. 144	COLLINWOOD COMMUNITY	$	1,117.20
115-06-071	887 E 146	COLLINWOOD COMMUNITY	$	1,568.00
115-06-106	911 E 144	COLLINWOOD COMMUNITY	$	1,117.20
116-18-022	1296 AMSTERDAM	COLLIWOOD & NOTTINGHAM VILLAGE	$	213.44
016-02-011	662 DENISON	COLOMBO ENTERPRISES	$	1,585.52
016-02-012	661 DENISON	COLOMBO ENTERPRISES	$	1,356.60
130-08-012	12812 METCALF	COLONIAL SAVINGS	$	291.20
006-20-130	W & LORAIN	COLUMBO ENTERPRISED	$	731.78
007-22-001	W 25	COLUMBO ENTERPRISED	$	962.50
007-23-112	2606 QUEEN	COLUMBO ENTERPRISED	$	315.00
007-23-113	QUEEN	COLUMBO ENTERPRISED	$	280.00
115-02-025	885 E. 143	COMMUNITY COMM SVCS	$	1,117.20
003-30-035	3804 WHITMAN	CORPORATE CENTER PFS - PARK VIEW FED.	$	147.84
115-02-062	883 E 141ST ST	CORPORATE CENTER PFS - PARK VIEW FED.	$	325.86
109-09-101	NORTH BLVD	CORY UNITED METHODIST	$	245.00
002-20-070	1426 W 84TH ST	COUNTRYWIDE HOME LOANS	$	324.80
103-19-001	2163 CEDAR	COUNTY BOARD OF COMMISSIONERS	$	9,028.74
129-15-011	2807 E. 119	Credit Based Asset	$	649.60
107-20-049	922 EDMUNDS	CRESTHAVEN DEVELOPMENT	$	2,561.40
135-03-055	9818 ANDERSON	CRESTHAVEN DEVELOPMENT	$	1,142.40
137-07-036	E. 117 & BENHAM	CRESTHAVEN DEVELOPMENT	$	700.00

116-33-125	1294 E 188TH ST	CROSBY & ASSOCIATES	$	490.00
006-25-010	8005 NEVILLE	CUDELL INVESTMENT	$	350.00
105-12-017	6517 ST CLAIR	CUYAHOGA HARD CHROME	$	335.38
107-08-101	122 E. 80	CUYAHOGA METRO	$	280.00
138-13-049	11621 PURITAN AVE	CUYAHOGA METRO HOUSING AUTHORITY	$	388.50
005-15-086	3029 W 105TH ST	D. BROWN PROPERTIES LLC	$	185.50
116-15-056	1389 E 171ST ST	D. BROWN PROPERTIES LLC	$	266.00
016-19-006	5601 STORER	D.G. CUSTOM HOMES, LLC	$	187.26
105-33-137	LOCKYEAR	DAD & DAUGHTER, INC	$	588.00
105-33-138	7710 LOCKYEAR	DAD & DAUGHTER, INC	$	945.00
105-33-139	LOCKYEAR	DAD & DAUGHTER, INC	$	588.00
111-27-010	GLENSIDE & HAYDEN	DAHA WORLDWIDE DEVELOPMENT	$	630.00
131-21-063	3442 E. 53	Danly Investment, Inc	$	525.00
118-22-083	2271 E 69 ST	DAY CREEK LAND, LP	$	512.40
016-13-108	3249 W 46TH ST	DB INVESTMENTS/DMITRY BELKINS	$	1,130.50
001-07-084	1340 W. 93	DCF PROPERTIES LTD	$	414.40
111-06-167	DUNDEE & OAKVIEW	DE SHANAE, INC.	$	364.56
002-32--69	1876 W 54	DENISON HOMES INC	$	987.00
002-32-069	1876 W 54TH ST	DENISON HOMES INC.	$	987.00
118-05-013	6500 HOUGH	DEPT. OF HOUSING	$	1,381.38
128-01-090	Woodhill & Grandview	Dept. Of Housing &	$	343.00
137-03-082	12710 BENHAM	DEPT. OF HOUSING &	$	420.00
114-16-132	19007 CHEROKEE	DEPT. OF VETERANS AFFAIRS	$	266.00
110-21-088	1150 FAIRPORT	DESTINY VENTURES	$	560.00
129-29-121	12617 SIGNET	DESTINY VENTURES, LLC	$	294.00
135-03-096	9815 ANDERSON	DEUTSCHE BANK	$	413.98
109-03-127	9707 ADAMS	DEUTSCHE BANK NAT. TRUST	$	348.04
124-18-058	2691 E 65TH ST	DEUTSCHE BANK NAT. TRUST	$	375.20
131-23-019	5028 BARKWILL	DEUTSCHE BANK NAT. TRUST	$	441.00
108-05-067	667 E. 97	Deutsche Bank National	$	266.00
005-14-066	3131 W 104TH ST	DEUTSCHE BANK NATIONAL TRUST	$	244.86
109-13-012	10824 EARLE AVE	DEUTSCHE BANK NATIONAL TRUST CO.	$	300.30
117-01-054	1753 ALCOY	DEUTSCHE BANK NATIONAL TRUST CO.	$	396.34
115-03-014	944 E 144TH ST	DEUTSCHE BANK NATIONAL TRUST COMPANY	$	372.40
131-23-01	5028 BANKWILL	DEUTSCHE BANK NATIONAL TRUST COMPANY	$	220.50
129-27-076	11881 IMPERIAL	DEUTSCHE BANK TRUST	$	336.00
135-01-066	GIBSON	DEUTSCHE BANK TRUST	$	216.16
135-03-168	10115 GIBSON	DEUTSCHE BANK TRUST	$	593.18
109-17-119	10909 HAMPDEN	DEUTSHE BANK	$	276.86
006-03-130	2050 W 81	DEWEY RENOVATION	$	222.96
108-29-066	711-719 PARKWOOD	DIVERSIFIED PROPERTIES	$	1,679.86
135-01-096	9414 BEACON AVE	DREAM HOME PROPERTIES INC	$	207.90
106-03-026	WADE PARK & ADDISON	DYNES CORPORATION	$	2,203.32

106-03-026	17420 HARVARD(N.W.C. OF ADDISON	DYNES CORPORATION:TOM ROB, INC.	$	1,101.66
106-03-027	7309 WADE PARK	DYNES CORPORATION:TOM ROB, INC.	$	1,474.20
109-19-125	1082 OLIVET	DYSIS CAPITAL, LLC.	$	475.32
002-35-218	BRIDGE COURT	E & J INVESTMENTS	$	229.32
007-20-026	3518 CLARK	E & J INVESTMENTS PROP	$	415.80
126-27-118	E.79th & Grand	E. 79th Street Development	$	560.00
121-20-055	E.105 & FRANK	E.105 STREET CHURCH	$	646.10
115-13-095	1042 E 147TH ST	EAGLE HOME DEVELOPMENT, LLC	$	178.22
131-18-016	E. 49th & Barkwill	East 48th Street Pa	$	469.36
118-24-010	E. 74 & CENTRAL	EASTSIDE NEIGHBORHOOD	$	744.80
118-24-141	2241 E. 71	EASTSIDE NEIGHBORHOOD	$	1,008.00
118-24-142	22 E 71	EASTSIDE NEIGHBORHOOD	$	336.00
118-25-004	E.71	EASTSIDE NEIGHBORHOOD	$	1,344.00
118-26-064	E.76	EASTSIDE NEIGHBORHOOD	$	289.80
118-26-065	E.76	EASTSIDE NEIGHBORHOOD	$	584.50
118-33-017	E.74	EASTSIDE NEIGHBORHOOD	$	677.60
118-34-104	SOUTH OF 2329 E.76	EASTSIDE NEIGHBORHOOD	$	230.30
124-30-038	S.E.C. OF HILLSIDE & MINNIE	EASTSIDE NEIGHBORHOOD	$	294.00
124-30-064	MINNIE	EASTSIDE NEIGHBORHOOD	$	256.20
124-30-102	S.W.C. OF COLFAX & MINNIE	EASTSIDE NEIGHBORHOOD	$	315.00
124-30-103	S.E.C. OF E.75 & COLFAX	EASTSIDE NEIGHBORHOOD	$	315.00
124-30-104	S.E.C. OF E.75 & COLFAX	EASTSIDE NEIGHBORHOOD	$	315.00
124-30-105	S.E.C. OF E.75 & COLFAX	EASTSIDE NEIGHBORHOOD	$	315.00
124-30-106	S.E.C. OF E.75 & COLFAX	EASTSIDE NEIGHBORHOOD	$	315.00
017-03-127	3157 W 97	EBAR INC	$	84.00
004-09-039	W. 11 & FAIRFIELD	EIKONA CORPORATION	$	77.14
127-11-157	910 HARRIS	ELITE BUILDERS	$	229.32
107-07-124	MEDINA	EMC MORTGAGE CORP	$	306.60
125-26-121	5755 Portage	EMC Mortgage Corp	$	677.60
142-16-030	4476 E 156 ST	EMC MORTGAGE CORP.	$	1,050.00
112-06-136	E 140 & MCELHATTEN	EMPIRE CONSTRUCTION	$	593.60
128-06-052	2215 E 103 & SHAKER BLVD(3 EAST	ENTERPRISE INTERNATIONAL	$	374.86
110-20-038	11610 HOPKINS	EQUICREDIT CORP.	$	369.60
007-01-092	4300 APPLE CT	EQUITY ONE CHASE MANHATTAN MORTGAGE	$	262.50
017-03-056	3151 W 92 ST	EQUITY TRUST CO.	$	322.00
127-16-130	9520 Fuller	Evergreen Homes LLC	$	744.80
110-04-104	608 E. 124	EVERLASTING BAPTIST	$	367.52
117-16-107	1837 WILLOWHEARST	EXCELLENT INSURANCE CORP.	$	1,032.52
119-27-003	2325/27 E.79	FAIRFAX RENAISSANCE	$	297.50
119-27-004	2325/27 E.79	FAIRFAX RENAISSANCE	$	476.00
119-27-053	GOLDEN	FAIRFAX RENAISSANCE	$	253.76
119-27-054	GOLDEN	FAIRFAX RENAISSANCE	$	260.76
119-27-137	LUCIA	FAIRFAX RENAISSANCE	$	500.50

119-29-105	2235 E.84	FAIRFAX RENAISSANCE	$	306.60
119-29-111	E.84	FAIRFAX RENAISSANCE	$	337.28
119-30-029	E.84 & QUINCY	FAIRFAX RENAISSANCE	$	1,011.80
119-30-030	N.E.C. OF E.84 & QUINCY	FAIRFAX RENAISSANCE	$	560.00
119-30-036	E.86 & QUINCY	FAIRFAX RENAISSANCE	$	445.92
119-30-126	E. 84	FAIRFAX RENAISSANCE	$	403.20
119-31-043	E.93	FAIRFAX RENAISSANCE	$	784.00
119-31-102	2187 E.86	FAIRFAX RENAISSANCE	$	390.60
119-32-012	SOUTH OF 2295 E.86	FAIRFAX RENAISSANCE	$	197.40
119-32-090	E.88	FAIRFAX RENAISSANCE	$	245.00
119-32-120	2265 E.87	FAIRFAX RENAISSANCE	$	924.00
119-34-042	E.93	FAIRFAX RENAISSANCE	$	784.00
119-34-043	SOUTH OF 2326 E.93	FAIRFAX RENAISSANCE	$	784.00
121-20-081	E.106 & FRANK	FAIRFAX RENAISSANCE	$	682.52
126-01-002	S.E.C. OF E.79 & QUINCY	FAIRFAX RENAISSANCE	$	218.40
126-01-006	N.E.C. OF E.79 & KEYS	FAIRFAX RENAISSANCE	$	308.00
126-01-100	2566 E. 86	FAIRFAX RENAISSANCE	$	434.00
126-01-102	E. 82	FAIRFAX RENAISSANCE	$	560.00
126-01-172	E. 79 & KEYES	FAIRFAX RENAISSANCE	$	148.40
126-01-181	2419 E. 79	FAIRFAX RENAISSANCE	$	157.50
126-03-005	E. 84 & QUINCY	FAIRFAX RENAISSANCE	$	808.50
126-08-044	89 Beckman	Fairfax Renaissance	$	568.40
126-08-061	90 Capital	Fairfax Renaissance	$	485.52
126-08-062	90 Capital	Fairfax Renaissance	$	487.20
119-34-053	2280 E 93 ST	FAIRFAX RENAISSANCE CORP.	$	1,568.00
111-01-007	E 114 & ST CLAIR	FAITH COMMUNITY	$	263.20
123-32-093	E. 82 & Dawn	Faith Community Bap	$	141.06
106-13-084	1649 E 70	FAITH TEMPLE CHURCH	$	150.08
104-21-085	6001 QUIMBY	FAMICOS FOUNDATION	$	784.00
106-08-078	Lawnview	Famicos Foundation	$	355.60
106-08-079	6715 Lawnview	Famicos Foundation	$	280.00
106-12-001	E. 66th & Lawnview	Famicos Foundation	$	245.00
106-13-049	7014 Linwood	Famicos Foundation	$	422.80
106-13-051	701 Linwood	Famicos Foundation	$	422.80
106-15-090	1716 E. 70	Famicos Foundation	$	271.96
106-15-091	1730 E. 70	Famicos Foundation	$	279.72
106-15-111	1707 E. 70	Famicos Foundation	$	214.20
106-15-112	1707 E. 70	Famicos Foundation	$	233.30
107-03-079	8109 Crumb	Famicos Foundation	$	231.00
120-06-002	S.E.C. OF E.105 & ORVILLE	FAMICOS FOUNDATION	$	504.00
120-06-006	E.105	FAMICOS FOUNDATION	$	1,330.00
120-06-007	E.105	FAMICOS FOUNDATION	$	1,330.00
106-08-069	14 E 66	FAMICO'S FOUNDATION	$	963.20

106-08-080	6715 LAWNVIEW	FAMICO'S FOUNDATION	$ 355.60
106-09-049	LAWNVIEW	FAMICO'S FOUNDATION	$ 358.40
137-19-060	13610 HORNER	FANNIE MAE	$ 196.00
125-02-055	EAST OF 5711 BOWER	FBE	$ 490.00
127-16-131	9520 Fuller	FBE, INC	$ 744.80
120-03-043	1347 E 112TH ST	FCI NATIONAL FUND II, LLC	$ 336.00
110-03-030	727 E. 117	FEDERAL NATIONAL MO	$ 565.60
121-19-128	2307 E 101 ST	FEDERAL NATIONAL MORTGAGE ASSN.	$ 483.00
132-24-132	4094 E 67 ST	FEDERAL NATIONAL MORTGAGE ASSOC.	$ 357.64
017-29-132	3321 W 95TH ST	FEDERAL NATIONAL MORTGAGE ASSOCIATE	$ 305.62
004-19-092	2481 W 6TH ST	FEDERAL NATIONAL MORTGAGE ASSOCIATES	$ 225.26
014-13-129	4305 BROOKLYN	FEDERAL NATIONAL MORTGAGE ASSOCIATES	$ 400.40
016-08-021	3140 W 58TH ST	FEDERAL NATIONAL MORTGAGE ASSOCIATES	$ 231.00
119-32-117	2281 E 87TH ST	FEDERAL NATIONAL MORTGAGE ASSOCIATES	$ 327.60
015-01-014	3279 W 44TH ST	FEDERAL NATIONAL MORTGAGE ASSOCIATION	$ 280.00
121-33-117	11128 MT.CARMEL	FEDERAL NATIONAL MORTGAGE ASSOCIATION	$ 392.00
117-21-002	EUCLID & TORBENSEN	FEDERATED PROPERTY	$ 588.00
117-21-020	EUCLID & TORBENSON	FEDERATED PROPERTY	$ 739.90
117-21-021	EUCLID & TORBENSEN	FEDERATED PROPERTY	$ 630.00
117-21-022	EUCLID & TORBENSEN	FEDERATED PROPERTY	$ 560.00
107-03-102	MAUDE	FF5-FAMICO'S FOUNDATION	$ 900.48
103-22-113	2166 E 38	FIFTH CHURCH OF GOD	$ 632.10
103-22-114	2166 E 38	FIFTH CHURCH OF GOD	$ 243.12
103-22-115	2166 E 38	FIFTH CHURCH OF GOD	$ 507.36
103-22-116	2166 E 38	FIFTH CHURCH OF GOD	$ 761.04
006-27-086	8006 BRINSMADE	FIFTH THIRD MORTGAGE	$ 279.30
118-06-049	E. 66 & EUCLID	FINANCIAL AMERICA	$ 1,785.00
005-17-125	2085 W 104TH ST	FIRST CAPITAL INVESTMENTS LLC	$ 276.86
121-20-156	10603 HUDSON	FIRST CHOICE MANAGEMENT SERVICES	$ 226.80
013-28-011	4517 MEMPHIS	FIRST INDIANA BANK	$ 315.98
120-05-120	E.120	FIRST MORTGAGE CORP.	$ 1,134.00
107-16-120	8701 MERIDIAN	FIRST NATIONAL MANA	$ 504.00
123-31-163	ANSON	FLAGSTAR BANK	$ 280.00
123-22-002	DOLLOFF	FOOD WAREHOUSE INC.	$ 210.00
111-26-002	14 COIT	FORD CONSUMER FINANCE	$ 1,207.50
106-02-020	1352 GIDDINGS (SOUTH OF)	FOUNDATION FOR INNER CITY	$ 617.40
121-31-007	2451 WOODHILL AVE	FOUR STAR CONSTRUCT	$ 1,345.40
016-11-112	3173 W 54	FRAGAPANE CONSTRUCTION	$ 365.90
124-28-014	E.79 & HOLTON	FRANKLIN REALTY CO.	$ 1,299.20
008-04-093	2902 W. 11	FREMONT BUILDING CO.	$ 628.32
118-29-109	S.E.C. OF E.61	GABRIEL'S GREEN LTD.	$ 140.00
104-11-014	"3407 STANARD & E 55TH ST, N/W	GANNETT GOODRICH	$ 372.76
133-25-006	9116 Cambridge	Garland Industries	$ 1,276.80

004-02-101	2076 W 17TH ST	GINMARK PROPERTIES	$	210.00
108-20-021	814 E. 100	GLENVILLE DEVELOPMENT	$	1,120.00
108-20-022	840 E. 100	GLENVILLE DEVELOPMENT	$	560.00
108-23-045	EAST 103	GLENVILLE DEVELOPMENT	$	337.96
108-23-046	SWC OF E. 103 & ST. CLAIR	GLENVILLE DEVELOPMENT	$	4,375.36
109-21-045	1033 PARKWOOD	GLENVILLE DEVELOPMENT	$	560.00
108-06-064	E. 91	GLENVILLE HOMES	$	644.00
108-13-050	DUPONT	GLENVILLE HOMES	$	247.52
108-15-095	E. 110	GLENVILLE HOMES	$	280.00
108-25-025	ELGIN & PARKWOOD	GLENVILLE HOMES	$	370.16
108-27-130	EVERTON	GLENVILLE HOMES	$	460.40
109-13-014	EARLE AND PARKWOOD	GLENVILLE HOMES	$	6,286.00
109-18-117	10715 OLIVET	GLENVILLE HOMES	$	560.00
109-19-128	OLIVET	GLENVILLE HOMES	$	240.10
109-20-042	LINN DR	GLENVILLE HOMES	$	315.00
109-20-059	PARKWOOD & EARLE	GLENVILLE HOMES	$	1,470.56
109-20-065	EARLE	GLENVILLE HOMES	$	266.00
109-20-084	11206 GREENVIEW	GLENVILLE HOMES	$	263.20
108-24-058	E. 102 & FOLK	GLENVILLE HOMES II	$	309.12
108-27-134	ENGLEWOOD	GLENVILLE HOMES III	$	920.80
108-31-006	WILLOWMERE & LAKEVIEW	GLENVILLE HOMES III	$	980.42
108-06-001	STEWART & E. 90	GLENVILLE HOMES, II	$	220.50
108-06-004	SEC OF E. 90 & STEWART	GLENVILLE HOMES, II	$	338.10
108-06-006	767 E. 90	GLENVILLE HOMES, II	$	396.90
108-06-007	E. 90	GLENVILLE HOMES, II	$	367.50
108-06-010	E. 90	GLENVILLE HOMES, II	$	367.50
108-06-011	E. 90	GLENVILLE HOMES, II	$	735.00
108-06-048	769 E. 92	GLENVILLE HOMES, II	$	294.00
109-20-015	11201 TUSCORA	GLENVILLE HOMES, II	$	336.00
108-16-011	10617 DUPONT	GLENVILLE HOMES, III	$	336.00
118-07-071	1900 E. 71	GLENWOOD HOUSTON	$	641.56
119-09-053	1775 E 90TH ST	GMAC MORTGAGE CORPORATION	$	296.80
106-04-001	SUPERIOR & ADDISON	GRACE UNLIMITED COR	$	490.00
106-15-118	7013 RUSSELL CT	GREAT SAFEWAY BAPTIST	$	162.54
112-25-084	14717 THAMES	GREATER BETHEL	$	964.60
118-34-049	E.76 & QUINCY	GREEN GROVE MISSIONARY	$	441.00
118-25-100	7511 CEDAR	GREEN TREE SERVICING LLC	$	310.80
016-12-090	3339 W 46	GREENWICH PROPERTY	$	504.00
142-24-031	4589 E. 147TH	GREYSTONE SERVICING	$	436.80
115-14-002	14521 Coit	GRP Realty, LLc	$	397.60
135-11-081	3562 E 113TH (NORTH OF) ST	GRP/AG RED 2001, LLC	$	240.38
135-11-081	3562 E. 113	Grp/AG REO 2000+1	$	480.76
113-21-061	1047 E 168TH ST	GWEN GREGORY SBT-SHORE BANK	$	421.26

005-07-075	3035 W 115	H 2 INVESTMENTS	$	269.50
111-02-054	508 E 114TH ST	H&J PROPERTIES	$	294.00
138-03-138	12314 DOVE AVE	H.T. CONSTRUCTION	$	336.00
111-28-062	14704 Coit	H.U.D	$	504.00
139-01-059	3535 E. 143	H.W. & D.W., LLC	$	613.82
131-21-042	3429 E. 53	H2 Investments, Inc	$	262.50
103-21-113	2177 E 35ST ST	HABITAT FOR HUMANITY	$	336.00
110-21-003	11310 OHLMAN	HALLMARK MANAGEMENT ASSOCIATES INC	$	867.52
109-21-015	1038 E LAKEVIEW RD	HALLMARK MANAGEMENT ASSOCIATES INC.	$	655.20
121-20-007	E.106 & CEDAR	HALMARNIE, INC.	$	171.50
121-20-082	E.106 & FRANK	HALMARNIE, INC.	$	525.00
121-20-178	E.106 & CEDAR	HALMARNIE, INC.	$	733.48
129-05-018	12011 MT. OVERLOOK	HAPSAD TRUST	$	282.80
120-03-042	1371 E 112 (2 NORTH OF)	HAR VER, INC.	$	4,032.00
111-24-043	13619 WOODWORTH	HARDAWAY PROPERTIES	$	347.20
107-09-041	NEC OF E. 83 & SUPERIOR	HARRIS ENTERPRISES	$	853.86
110-09-014	717 E 131	HATCHER CHAPEL AM	$	252.00
108-26-014	E. 105 & ENGLEWOOD	HAWKINS & ASSOC.	$	735.00
127-18-024	3293 E 104TH ST	HEARTS FOR HOMES	$	336.00
107-14-072	BET 1356 - 1342 E. 88TH	HH-HOUGH HOMES 2 LP	$	207.48
107-14-073	E. 88	HH-HOUGH HOMES 2 LP	$	315.00
107-14-081	1322 E. 88	HH-HOUGH HOMES 2 LP	$	231.42
109-09-190	10201 SOMERSET	HIGHPOINT DEVELOPMENT	$	308.00
008-15-018	W. 25	HISPANIC VISIONARY	$	422.10
008-15-019	W. 25	HISPANIC VISIONARY	$	417.90
110-15-041	791 E 131 ST	HI-TECH INTERNATIONAL INC.	$	252.00
006-30-026	W 68 & CAMDEN	HML II INC	$	245.00
123-29-022	3190 E 49	HOLMDEN HILL, LLC.	$	759.50
130-22-001	E. 121 and Kinsman	Holy Ghost Tabernac	$	910.00
121-21-050	E.108 & FRANK	HOLZHEIMER INTERIOR	$	407.68
107-16-180	1527 E. 86TH STREET	HOME EQ SERVICING CORP	$	373.10
121-20-162	10629 HUDSON	HOME VENTURES, INC.	$	226.80
131-32-063	3721 E. 50	HomeAmerican Credit	$	347.20
125-10-045	E.68 & ROGERS	HOMECOMINGS FINANCIAL	$	168.00
140-04-020	3763 E 154TH ST	HOMECOMINGS FINANCIAL NETWORK	$	361.20
106-18-058	7705 Wade Park	Homes for Hough Inc	$	392.00
131-20-088	3418 E 52ND ST	HOMEVENTURES, INC	$	262.50
106-05-125	E. 77 & STAR	HOPE INC	$	245.00
118-05-012	6516 HOUGH	HOPE, INC.	$	700.72
123-27-010	N.W.C. OF DILLE & BROADWAY	HORIZON CONSTRUCTION	$	322.56
107-15-098	EAST 86	HOUGH AREA DEV. CORP	$	638.40
107-16-129	8704 MERIDIAN	HOUGH AREA DEV. CORP	$	694.40
119-05-068	E.87	HOUGH AREA DEVELOPMENT	$	784.00

104-18-009	LINWOOD	HOUGH AREA PARTNERS	$	1,060.50
119-09-020	E.90 & HOUGH	HOUGH AREA PARTNERS	$	909.72
107-06-109	8408 Pulaski	Hough Home	$	210.00
107-06-110	8408 Pulaski Ave	Hough Home	$	210.00
107-08-076	E. Kosciuszko	Hough Home	$	224.00
106-21-076	7927 CORY	HOUGH HOMES	$	254.80
107-06-086	8420 SOWINSKI	HOUGH HOMES	$	207.90
107-06-087	SOWINSKI	HOUGH HOMES	$	207.90
107-06-092	ANSEL & SOWINSKI	HOUGH HOMES	$	420.00
107-06-093	ANSEL & SOWINSKI	HOUGH HOMES	$	210.00
107-10-010	E. 89 & ANSEL	HOUGH HOMES	$	901.18
109-21-099	11201 ADA	HOUGH HOMES	$	313.60
110-13-048	124 WOODSIDE	HOUGH HOMES	$	618.52
107-14-168	1349 E. 90	HOUGH HOMES II LTD.	$	225.40
107-22-033	ANSEL & TALBOT	HOUGH HOMES II LTD.	$	505.12
107-22-057	Edmunds	Hough Homes II Ltd.	$	462.00
107-14-187	E. 91	HOUGH HOMES L.P.	$	280.00
110-14-154	12627 WOODSIDE	HOUGH HOMES LP	$	840.00
111-06-062	E. 117 & SELLERS	HOUGH HOMES LP	$	906.80
107-12-069	1367 E. 92	HOUGH HOMES LTD	$	231.00
104-17-156	6009 LUTHER	HOUGH HOMES, L. P.	$	929.60
107-09-139	E. 83	HOUGH HOMES, L.B.	$	175.56
107-10-093	1206 E. 87TH	HOUGH HOMES, L.B.	$	281.76
142-14-050	4372 E. 158	HOUSEHOLD REALTY CO.	$	700.00
123-22-046	5153 FOWLER	HOUSEHOLD REALTY CORP.	$	999.60
127-23-042	9618 RAYMOND	HSBC BANK	$	344.40
139-02-190	3632 E 144TH ST	HSBC BANK USA TRUSTEE	$	294.00
138-20-068	4313 E 141ST ST	HSL9-HOME SAVINGS & LOAN	$	341.60
124-19-035	E.64 PL & BEAVER	HUNTINGTON NATIONAL BANK	$	898.46
124-19-036	S.E.C. OF E.62 & BEAVER	HUNTINGTON NATIONAL BANK	$	131.68
124-19-095	S.W.C. OF E.61 & BEAVER	HUNTINGTON NATIONAL BANK	$	143.64
119-32-001	2265 E. 86TH STREET	IB PROPERTIES LLC	$	214.84
124-28-024	2762 E.79	INEZ HALL	$	448.00
109-21-083	1021 LINN	INFINITY INVESTMENT	$	2,588.04
115-11-005	928 E. 152	INSPIRATION COMMUNITY	$	672.00
005-27-103	9717 LARDNER	INVESTMENT PROPERTY	$	105.28
109-15-057	10902 PASADENA	INVESTOR'S ONE CORP	$	409.50
015-10-118	3102 TROWBRIDGE	IRENE DEVER TFS1-THIRD FEDERAL	$	283.50
123-28-014	E.45 & JEWETT	ISG CLEVELAND, INC.	$	210.00
007-29-010	3801 W 38TH ST	ITALIAN PENTICOSTAL ASSEMBLY	$	392.00
005-17-081	2082 W 104TH ST	J&C HOMEBUYERS INC	$	261.04
136-06-073	11409 DOVE AVE	J.K. HOME REALTY, LLC	$	464.80
110-31-004	11625 SUPERIOR	J.S. OHIO LLC	$	1,120.00

116-09-005	667 E 152 ST	J.T.M. PROPERTIES, LTD.	$	494.76
103-24-082	2 E 55	JACQUELINE B BURTON	$	514.52
107-10-031	E. 89th & Superior	Jazzi Realty Inc	$	688.00
125-35-089	7208 IVY	JEFFREY KELLOGG	$	305.20
135-21-093	11309 REVERE AVE	JENNIFER HAUK NCB - NATIONAL CITY MORT.	$	336.00
120-06-061	ORVILLE	JONAS TEMPLE CHURCH	$	700.00
120-06-062	ORVILLE	JONAS TEMPLE CHURCH	$	700.00
107-16-170	E. 86 & MERIDIAN	JOSE A. PEREZ	$	892.50
003-29-065	4204 JOHN AVE	JP MORGAN CHASE BANK	$	315.98
017-02-031	3220 W 90TH ST	JP MORGAN CHASE BANK	$	247.46
108-07-148	9316 COBB CT	JP MORGAN CHASE BANK	$	257.26
115-21-018	15311 SCHOOL	JP MORGAN CHASE BANK	$	203.36
126-16-044	2640 WOODHILL	JP MORGAN CHASE BANK	$	282.80
129-19-035	12101 Forest	JP Morgan Chase Bank	$	323.40
118-10-012	1946 E 79	JPC INVESTMENTS	$	1,327.20
110-31-073	1294 E 115TH ST	JUST REASON, LLC	$	560.00
112-15-002	15448 Lakeshore	K & D Investments	$	556.92
108-07-125	766 E. 95	KAMMER INVESTMENT CO.	$	735.00
116-08-013	18430 NOTTINGHAM	KASE MANUFACTURING	$	1,342.88
132-11-006	3872 E. 57	KCBS, INC	$	261.02
104-07-022	1392 E 43 ST	KDR PROPERTIES, LLC.	$	739.90
123-28-051	N.W.C. OF E.45 & CZAR	KELLER INDUSTRIES	$	294.00
107-16-095	EAST 86 KENMORE	KENMORE VILLAGE LTD	$	207.20
112-13-062	15115 LUCKNOW	KENNETH F. SCHROEDER	$	129.50
008-16-134	2009 CLOVER	KEY HOME EQUITY SERVICE	$	347.20
007-30-065	3147 W 38	KEYBANK NATIONAL	$	319.20
015-05-102	3287 W 31	KEYBANK USA NA	$	336.00
106-18-041	7528 EVERETT CT	KINGDOM LIFE MINISTRY	$	249.48
106-18-042	75 EVERETT CT	KINGDOM LIFE MINISTRY	$	74.48
106-18-094	75 EVERETT CT	KINGDOM LIFE MINISTRY	$	69.16
125-17-029	WEST OF 6839 BERWICK	KINSMAN AVE. CHURCH	$	249.20
125-17-030	BERWICK	KINSMAN AVE. CHURCH	$	367.52
130-13-008	14211 KINSMAN	KINSMAN RD FDO, LTD	$	140.00
007-12-054	2327 W 30TH ST	KNIGHT & DAY REAL ESTATE COMPANY	$	172.20
124-27-014	COLFAX	L. GRAY BARREL & DRUM	$	420.00
120-11-059	E.123	LAC, INC.	$	550.62
115-26-076	865 WHITCOMB	LAKEFRONT MANAGEMENT	$	420.00
130-06-041	3340 E 128TH ST	LAKEFRONT MANAGEMENT	$	420.00
143-13-094	16516 LANGLEY AVE	LAKELAND MANAGEMENT	$	470.40
009-22-072	1921 TREADWAY	LAKESIDE DEVELOPMENT	$	355.60
116-14-052	691 E 159TH ST	LAKESIDE DEVELOPMENT	$	1,394.40
120-01-027	10717 HULL	LAKEVIEW PLACE DEV.	$	490.00
115-09-050	14911 ASPINWALL	LAND SERVANT INC.	$	392.00

131-30-036	3614 E 47	LAND TRUST THOMAS COUNCIL TRUSTEE	$	324.32
135-02-116	9622 ANDERSON AVE	LANDFAIR COYER COFC	$	490.00
131-20-122	4927 GUY	LANI INC.	$	210.00
125-35-022	3448 E 72ND ST	LANI, INC	$	257.26
017-03-115	3152 W 95 ST	LANI, INC.	$	418.60
007-21-049	3441 ERIN	LASALLE BANK NATIONAL ASSOC.	$	354.84
007-21-099	3441 ERIN	LASALLE BANK NATIONAL ASSOCIATION	$	709.66
125-25-076	3225 E. 56th PL	Lass Realty Inc	$	514.50
125-25-077	3225 E. 56th PL	Lass Realty Inc	$	514.50
125-25-078	3225 E. 56th PL	Lass Realty Inc	$	514.50
125-25-079	3225 E. 56th PL	Lass Realty Inc	$	514.50
125-25-080	3225 E. 56th Pole	Lass Realty Inc	$	514.50
125-25-002	E.55th & Lufkin	Lass Rlty Co.	$	630.00
125-25-003	E.55th & Lufkin	Lass Rlty Co.	$	2,583.00
118-26-015	S.W.C. OF E.79 & MADISON CT.	LAST STOP BANANZA	$	248.86
014-09-072	W 42 & MEMPHIS	LEATHERMAN NURSING	$	250.26
126-27-111	8013 RAWLINGS	LEE HAMPTON COOPWOOD	$	1,500.94
120-02-105	WEST OF 10729 ORVILLE	LEE ORVILLE APARTMENTS	$	654.50
125-24-028	5679 HAMLET	LIBERTY SAVINGS BANK	$	327.60
117-15-043	16919 HILLSBORO	LIFE CHANGERS REAL ESTATE DEV.	$	478.80
140-25-043	3878 E 188TH ST	LITTON LOAN SERVICING LP	$	437.50
137-18-157	13310 MELZER	LUCRATIVITY INC.	$	378.00
109-24-009	1266 E 114	LYNNHAVEN DEVELOPMENT	$	280.00
108-28-101	10726 ST. CLAIR	M A R DEVELOPMENT	$	418.60
118-07-042	1908 E. 70	M.A.R. DEVELOPMENT	$	1,617.00
119-03-102	E.85	M.A.R. DEVELOPMENT	$	630.00
119-04-097	SOUTH OF 1839 E.85	M.A.R. DEVELOPMENT	$	423.16
019-10-021	3960/3952 W 129	MACRO/AMERICA INC	$	336.00
015-10-023	TROWBRIDGE	MADISON AVE LAND CO	$	736.76
015-10-024	SWC OF W. 25 & TROWBRIDGE	MADISON AVE LAND CO	$	371.08
015-10-025	SWC OF W. 25 & TROWBRIDGE	MADISON AVE LAND CO	$	371.08
015-10-074	2624 WOODBRIDGE	MADISON AVE LAND CO	$	392.00
015-10-171	W 30 & TROWBRIDGE	MADISON AVE LAND CO	$	336.00
127-23-073	HEATH	MAHD ASSOCIATES	$	344.40
105-21-134	1089 E 64	MAHDI & ASSOCIATES	$	613.20
128-07-012	10800 Shale	Mahdi & Associates	$	441.00
111-01-030	573 E 114TH ST	MAHDI ASSOCIATES LTD.	$	280.00
002-21-011	1971 W. 85	MAJOR INVESTMENTS	$	210.00
107-04-036	977 ANSEL	MANAGEMENT HAGGERTY	$	700.00
136-15-045	4153 E 102ND ST	MANAGEMENT LTD. MILLENNIA HOUSING	$	313.60
137-03-017	E. 129TH & UNION	MANUFACTURERS & TRAD	$	366.80
120-04-109	1353 E.114	MANUFACTURERS & TRADERS	$	514.52
106-11-086	1482 ADDISON	MBL PROPERTIES	$	1,245.16

009-35-192	SKYVIEW & BRADLEY	MEB PROPERTIES	$	2,656.50
007-21-118	3235 ERIN	MEDITERRANEAN & BALTIC REALTY	$	239.76
121-33-160	EAST OF 11026 MT. CARMEL	MERCURY SAVINGS ASSN.	$	215.60
006-20-029	W 48 & LORAIN	METROPOLITAN HOUSING	$	306.26
128-21-067	9704 Hilgert	Mham Properties Ltd	$	354.90
014-14-002	4023 MEMPHIS	MICHAEL KULAGA	$	341.60
135-19-092	10506 Reno	Midwest Homes, Inc	$	364.00
138-05-096	13304 BENWOOD	MIDWEST VENTURE	$	554.40
142-27-152	E. 153 & LINCOLN	MILES HT. VILLAGE	$	210.00
105-30-089	992 E 78	MINISTERIAL DAY CARE	$	700.00
110-05-015	E 124 & BRACKLAND	MINISTERIAL DAYCARE	$	599.20
110-07-092	E 125	MINISTERIAL DAYCARE	$	432.18
110-07-093	E 125 & BRACKLAND	MINISTERIAL DAYCARE	$	432.18
110-07-095	E 125 & BRACKLAND	MINISTERIAL DAYCARE	$	335.16
105-12-034	6600 METTA AVE (WEST OF)	MODERN INDUSTRIES INC.	$	1,101.88
104-15-099	1200 E 61 ST	MONUMENT STREET FUNDING, LLC	$	254.80
131-34-013	E. 53 & Eliza	Morabito Enterprise	$	294.00
108-10-006	10323 ELK	MORGAN REALTY	$	364.00
015-06-005	3345 W 44	MORTGAGE ELECTRONIC	$	341.26
114-18-001	19615 Pawnee	Moto Construction	$	332.30
118-22-142	2259 E 69	MOUNTVIEW INVESTMENTS	$	238.00
121-20-032	EAST OF 10523 NORMAN	MRL LIMITED PARTNERSHIP	$	203.28
110-09-081	701 E 127	MT MORIAH BAPTIST	$	588.00
130-04-030	12405 KINSMAN	MT PLEASANT	$	338.80
130-04-031	12405 KINSMAN (WEST OF)	MT PLEASANT	$	312.90
130-12-031	13921 KINSMAN (WEST OF)	MT PLEASANT NOW DEV CORP	$	355.26
130-24-002	13700 KINSMAN (WEST OF)	MT PLEASANT NOW DEV CORP	$	1,478.90
130-04-029	12309 KINSMAN	MT PLEASANT NOW DEVELOPMENT	$	364.00
130-04-028	12305 KINSMAN	MT PLEASANT NOW DEVELOPMENT CORP	$	341.60
115-03-110	977 E. 140	MT. HOLINESS CHURCH	$	1,150.80
127-24-041	E. 105 & UNION	MT. PLEASANT HOME	$	682.50
124-26-012	7012 COLFAX	MT. PLEASANT NOW	$	791.00
124-26-053	COLFAX	MT. PLEASANT NOW	$	980.00
130-08-033	NEC OF E. 132 & KINSMAN	MT. PLEASANT NOW DEV	$	877.12
130-08-034	13315 KINSMAN	MT. PLEASANT NOW DEV	$	925.40
005-17-126	2083 W 104	MTFLQ INVESTORS LP	$	553.72
106-09-081	6613-6915 ZOETER	N & M, INC	$	1,247.40
113-16-069	15715 Trafalgar	N.E Home Buyers	$	784.00
009-01-017	3890 W 23	NAMREH INC DAVID M	$	140.00
110-04-087	621 E 123RD ST	NATIONAL AMERICAS INVEST	$	437.50
120-09-050	1404 E 115TH ST	NATIONAL CITY BANK	$	422.80
121-19-093	SOUTH OF 2311 E.103	NATIONAL CITY BANK	$	300.16
142-06-022	14725 JUDSON AVE	NATIONAL CITY BANK	$	427.42

118-07-049	1860-1896 E. 70	NATL NON PROFIT COR	$	364.00
002-35-187	W 50	NETS ELECTRONIC TAX	$	252.00
124-29-016	WEST OF 2820 E.79	NEW COMMUNITY APOSTOLIC	$	212.80
124-29-017	WEST OF 2820 E.79	NEW COMMUNITY APOSTOLIC	$	161.00
109-15-092	10814 MASSIE	NEW HORIZON INVESTMENT CORP	$	262.16
109-19-069	10911 HATHAWAY	NEW HORIZON INVESTMENT CORP.	$	294.00
107-07-047	8023 KOSCIUSZKO	NEW JERUSALEM MISSI	$	514.52
107-07-048	8023 KOSCIUSZKO	NEW JERUSALEM MISSI	$	514.52
107-07-058	SWC OF E. 82 & SOWINSKI	NEW JERUSALEM MISSI	$	257.26
107-07-066	SOWINSKI	NEW JERUSALEM MISSI	$	514.26
107-07-067	8100 SOWINSKI	NEW JERUSALEM MISSI	$	514.26
107-07-068	SOWINSKI	NEW JERUSALEM MISSI	$	514.26
107-07-069	SOWINSKI	NEW JERUSALEM MISSI	$	455.72
107-07-070	SOWINSKI	NEW JERUSALEM MISSI	$	514.26
107-07-071	7916 SOWINSKI	NEW JERUSALEM MISSI	$	514.26
107-07-073	7916 SOWINSKI	NEW JERUSALEM MISSI	$	514.52
107-07-041	KOSCIUSZKO & E. 79	NEW JERUSALEM MISSION	$	514.52
107-07-052	KOSCIUSZKO & E. 80	NEW JERUSALEM MISSION	$	514.26
107-07-053	KOSCIUSZKO & E. 80	NEW JERUSALEM MISSION	$	514.26
107-07-054	KOSCIUSZKO & E. 80	NEW JERUSALEM MISSION	$	514.26
107-07-055	8023 KOSCIUSZKO	NEW JERUSALEM MISSION	$	514.26
107-07-056	KOSCIUSZKO & E. 82	NEW JERUSALEM MISSION	$	514.26
107-07-075	791 SOWINSKI	NEW JERUSALEM MISSION	$	514.52
107-07-049	8023 Kosciuszko	New Jerusalem Missionary	$	257.26
107-07-072	79 Sowinski	New Jerusalem Missionary	$	279.30
135-02-058	9702 GIBSON	NORTH COAST MORTGAGE	$	266.90
005-23-078	991 MADISON	NORTH COAST PROPERTY	$	560.00
134-12-001	7711 DOVER	NORTHEAST OHIO REGI	$	914.76
111-01-083	565 E. 110	Northeastern Neighb	$	196.00
110-19-092	1131 WHITMORE	NORTHEASTERN NEIGHBOR	$	1,159.20
110-31-070	1284 E 115	NORTHEASTERN NEIGHBOR	$	490.00
109-23-088	E. 112	NORTHEASTERN NEIGHBORHOOD	$	786.48
110-01-047	683 LAKEVIEW	NORTHEASTERN NEIGHBORHOOD	$	560.00
110-13-008	79 EDDY RD.	NORTHEASTERN NEIGHBORHOOD	$	1,310.40
110-25-035	THORNWOOD & LAKEVIEW	NORTHEASTERN NEIGHBORHOOD	$	985.60
120-04-080	E.115	NORTHEASTERN NEIGHBORHOOD	$	315.00
120-10-001	1405/07 & 1421 E.115	NORTHEASTERN NEIGHBORHOOD	$	1,140.72
120-02-101	ORVILLE	NORTHEASTERN NEIGHBOROOD	$	1,309.00
109-13-121	Gooding & Parkwood	Notre Dame Coummunity	$	450.80
011-05-020	2208 TATE	NOVASTAR MORTGAGE, INC.	$	311.16
104-15-123	1251 E 61 ST	NOVASTAR MORTGAGE, INC.	$	352.80
104-10-038	1427/1435 E 51	OHIO DIESEL TECH	$	350.00
007-29-043	4010 HYDE	OHIO SAVINGS BANK	$	315.00

105-30-156	1001 E 74	OHIO STATE OF (FORF)	$	416.50
119-21-032	2110 E 81ST PL	OHIO STATE OF (FORF) CASE #466933	$	126.00
135-06-005	9920 ORLEANS AVE	OHIO STATE OF (FORF) CASE #486311	$	292.96
007-07-109	3609 CHATHAM	OLD FITZ, LLC	$	382.20
136-19-012	4118 E. 116	OLIVE GROVE BAPTIST	$	456.96
126-05-109	8621 FOLSOM	OLIVET INSTITUTIONAL	$	417.20
126-05-103	8713 Folsom	Olivet Institutional	$	378.00
126-05-111	86 Folsom	Olivet Institutional	$	320.96
126-05-102	8801 FOLSOM (WEST OF)	OLIVET INSTITUTIONAL BAPTIST CHURCH	$	378.00
115-04-013	E 140 & COIT	OMEGA BAPTIST CHURCH	$	951.30
115-04-014	COIT & E. 140	OMEGA BAPTIST CHURCH	$	2,187.52
121-33-119	MT. CARMEL	OPPORTUNITY THROUGH	$	392.00
121-33-126	11209 WOODLAND	OPPORTUNITY THROUGH	$	303.80
124-26-039	EAST OF 7011 KINSMAN	ORIGINAL HARVEST CHURCH	$	560.00
121-33-120	MT. CARMEL	ORLANDO REALTY CO.	$	772.80
121-33-121	EAST OF 11200 MT. CARMEL	ORLANDO REALTY CO.	$	361.20
105-32-047	7802 DONALD	OXFORD PARTNERS	$	220.50
104-17-076	1426 E 61ST ST	P.V. COMPANY	$	378.00
105-33-039	E. 79 & SUPERIOR	PAIGE, DARBY, SHELL	$	646.80
104-24-053	154 E 47	PALSA DEVELOPMENT	$	245.00
131-21-050	3398 E 53RD ST	PANTHER MONIUM AVENUE	$	262.50
004-17-021	2462 W. 7	PARKHILL ASSOCIATES	$	403.20
004-17-023	246 W. 7	PARKHILL ASSOCIATES	$	348.80
109-10-114	E. 102 & Superior	Parkside Homes LLC	$	630.00
109-10-115	E. 102 & Superior	Parkside Homes LLC	$	1,075.20
109-11-027	E. 102 & Superior	Parkside Homes LLC	$	327.60
109-11-028	E. 102 & Superior	Parkside Homes LLC	$	249.76
109-11-025	E. 103 & SUPERIOR	PARKSIDE HOMES, LLC.	$	948.50
006-25-043	NEVILLE	PARTICK REALTY CO	$	176.40
007-22-022	W 25 & SWIFT	PARTRICK MEDIA CORP	$	437.50
007-28-113	3134 W 43RD ST	PASSAUFF, LLC	$	306.26
007-22-002	W. 25 & SWIFT	PATRICK MEDIA CORP.	$	218.76
118-07-003	7112 Hough	Patriot Church of G	$	876.12
117-27-002	GREEN & EUCLID	PEIZER I LTD.	$	672.00
138-17-130	13206 CAINE AVE	PENTECOSTAL DETERMINE CHURCH	$	1,050.00
135-16-118	3761 E 95TH ST	PETERSON CHANIA COFC	$	350.00
115-05-022	14319 SARANAC	PFP ASSOCIATION	$	392.00
103-25-014	E. 43 & CENTRAL	PHILLIS WHEATLY AS	$	336.00
119-31-063	2208 E 87	PICASSO PAINTING, INC	$	420.00
105-30-021	93 E 79	PIONEER SAVINGS	$	539.14
108-03-019	NWC OF E. 90 ESTERBROOK	PIONEER SAVINGS & L	$	369.04
126-08-065	9002 Capital	PJAC Enterprises	$	487.20
135-03-080	10115 ANDERSON AVE	PLEDGED PROPERTY	$	196.00

132-11-005	5910 LANDBROOK DR	POPLAR ASSOCIATES LLC	$	261.04
107-16-181	0 S.E.C OF E.86TH & BIRCHDALE	PREFERRED BUILDERS	$	282.10
107-16-182	0 E SILKWOOD(S.E.C. OF E.86 &	PREFERRED BUILDERS, INC.	$	282.10
115-13-040	1021 E 148	PREFERRED EQUITY BU	$	196.00
121-31-001	2391 WOODHILL	PREISTER LUMBER COMPANY	$	2,006.20
138-13-001	EAST 119TH ST & MILES	PREMIER RESTAURANT	$	1,050.00
136-01-009	3885 E. 93	PREMIUM TECHNICAL SE	$	436.80
120-03-006	E.111 & SUPERIOR	PRINCE HOUSE OF GOD	$	581.08
126-31-040	E. 83rd &GI	Progressive Ame Chu	$	280.00
143-07-068	14219 PALDA	PROPERTY IMPROVEMENTS SPECIAL	$	579.32
128-11-033	10013 ELWELL	PROVIDENT BANK	$	644.00
116-15-060	1373 E 171ST SQ	PV CO.	$	232.76
124-20-019	S.E.C. OF E.55 & ENSIGN	PYRRHUS, INC.	$	399.00
124-20-023	S.E.C. OF KINSMAN & ENSIGN	PYRRHUS, INC.	$	355.26
124-20-052	DIAMOND	PYRRHUS, INC.	$	239.40
115-21-013	15218 HOLMES	R & R CONSTRUCTION	$	203.36
111-17-048	453 Cleveland	R & R Management En	$	280.00
109-18-064	1061 HATHAWAY	R.E.M. HOME IMPROVEMENT	$	490.00
140-25-078	38 E. 189	RAR CONTRACTING CO.	$	875.00
142-15-006	LEE & MILES	RAYMOND SERHAND INC	$	1,333.50
115-07-030	9 E. 144	Real Asset Fund LI	$	372.40
117-06-010	1700 HILLVIEW	REAL BANK SSB	$	372.40
111-25-024	1390 IDAROSE	REALTY IMPROVEMENTS	$	882.00
107-16-125	8701 MERIDIAN	REBORG ACQUISITIONS	$	756.00
109-24-021	1110 SUPERIOR	REFRESHING SPRING	$	638.40
108-08-044	610 E. 101	REHAB A HOME, LTD	$	411.60
137-03-048	12714 OAKFIELD	REHAD A HOME LTD	$	840.00
143-02-065	16309 TELFAIR	RENOVATION CO.	$	448.00
109-24-077	1254 E 112	RENOVATION COMPANY	$	627.20
105-32-086	1127 E. 76	REO ACCEPTANCE CORP	$	519.76
110-17-060	898 E 129	REO ACCEPTANCE CORP	$	222.96
135-07-067	3561 E 104TH (SOUTH OF) ST	REO ACCEPTANCE CORP LTD	$	220.50
125-01-085	S.W.C. OF E.64 & CARPENTER	REO ACCEPTANCE CORP.	$	504.00
105-26-051	110 E 68	REO SOLUTIONS INC	$	388.36
013-28-085	4316 W 47TH ST	RESCOMM HOLDINGS NO2 LLC	$	271.96
107-17-117	9117 BIRCHDALE	RHAKHA, LLC	$	173.60
109-22-154	1084 LAKEVIEW	RHAKHA, LLC	$	242.56
115-01-040	835 E 141 ST	RHAKHA, LLC.	$	323.40
105-32-103	1154 E 77 ST	RM REAL ESTATE INVESTMENTS	$	159.04
120-08-072	1467 E. 111TH ST	RONALD BURRELL, LLC	$	336.00
131-35-018	3715 E. 52	RUETH-BRINZA TRUST	$	338.10
109-19-007	10 Hampden	Ry-Le Co	$	232.76
127-27-070	E. 114 & REGALIA	RY-LE, INC.	$	420.00

115-07-082	931 E. 147	RYSAR PROPERTIES	$	392.00
112-14-063	15 LAKESIDE AVE	RYSAR PROPERTIES INC.	$	206.50
134-03-012	4080 E 78TH ST	SABLE REALTY INC	$	1,323.00
136-14-007	9700 HARVARD	SABUR BUILDERS, INC.	$	385.00
135-03-119	10213 Benham	Sas, Inc	$	583.12
118-34-048	QUINCY	SAVRA ONE LTD. LIABILTY	$	722.40
121-33-144	DAVILLE CT.	SEC OF HUD	$	280.00
138-14-015	4256 MLK	SEC OF HUD	$	434.00
120-09-001	E.112 & ORVILLE	SEC. OF HUD	$	859.32
119-30-003	8306 CENTRAL	SECOND MACEDONIA MISS. BAPTIST	$	337.96
124-12-008	SOUTH OF 2631 E.55	SECOND MT. CARMEL	$	369.60
129-16-120	2813 E. 125	SECRETARY OF H.U.D.	$	322.00
134-02-050	4139 E. 74	SECRETARY OF H.U.D.	$	384.30
135-02-028	BEACON	SECRETARY OF H.U.D.	$	378.00
126-04-060	E. 84th	Secretary of Housin	$	728.00
129-09-134	11906 Hamlen	Secretary of Housin	$	305.20
015-23-051	3730 W 36	SECRETARY OF HOUSING	$	327.60
105-30-102	981 E 77	SECRETARY OF HOUSING	$	201.60
137-25-134	13602 SOUTHVIEW	SECRETARY OF HOUSING	$	522.90
012-18-076	5504 NORTHCLIFF	SECRETARY OF HOUSING & URBAN	$	434.00
016-13-125	3196 W 44	SECRETARY OF HUD	$	323.40
018-02-037	3507 W 126TH ST	SECRETARY OF HUD	$	257.26
107-07-095	81 PULASKI	SECRETARY OF HUD	$	365.40
109-18-078	E. 108 & OLIVET	SECRETARY OF HUD	$	666.40
127-22-107	9309 RAYMOND	SECRETARY OF HUD	$	280.00
127-25-128	3411 E. 106	SECRETARY OF HUD	$	406.00
127-25-144	3463 E. 106	SECRETARY OF HUD	$	913.52
134-01-095	7202 HARVARD SQ	SECRETARY OF HUD	$	987.00
136-02-071	9624 Nelson	Secretary of Hud	$	221.34
115-14-121	1114 E 148	SECRETARY OF HUD #9	$	448.00
127-22-125	9613 RAYMOND	SECRETARY OF HUD/ JOSEPH HAJEK	$	224.00
137-04-046	3565 E. 131ST ST	SECRETARY OF VETERANS AFFAIRS	$	355.60
119-33-060	2174 E 90	SENIOR CARE DEVELOPMENT	$	152.32
139-06-084	4004 E. 146	SERENITY OVERALL LA	$	672.00
115-08-014	736 E 152ND ST	SERVICES CENTER COLLINWOOD COMMUNITY	$	1,881.60
138-08-045	4137 E 120TH ST	SGM - THE MORTGAGE SERVICE CENTER	$	579.32
135-02-001	9508 UNION AVE	SGR PROPERTIES, LLC	$	238.00
135-02-010	9612 UNION AVE	SGR PROPERTIES, LLC	$	280.00
115-17-024	1163 E 148 ST	SGR PROPERTIES, LLC.	$	198.46
002-32-031	1876 W 57TH ST	SGW PROPERTIES LLC C/O GARY WEINHAUER	$	239.40
119-34-060	2279 E 90 (BTWN 2279 & 2271 E.90)	SHAWN CONSTRUCTION, LLC	$	241.92
126-20-030	Evins & Lisbon	Shenadoah Gift Com	$	533.76
113-15-022	277 E 156TH ST	SHIELDS SALE CORP	$	855.96

124-03-060	S.E.C. OF E.57 & SCOVILL	SHILOH BAPTIST CHURCH	$	302.40
107-03-117	979 E. 79	SIXTH ST TABERNACLE	$	1,402.80
005-15-102	3060 W 104TH ST	SKM PROPERTIES	$	185.50
131-22-040	DOLLOFF	SLAVIC VILLAGE	$	337.26
125-26-063	5957 Engel	Slavic Village Dev	$	224.00
125-14-002	2935 E.67	SLAVIC VILLAGE DEV.	$	2,836.68
133-02-061	3549 E. 72	Slavic Village Deve	$	392.00
133-02-062	3549 E. 72	Slavic Village Deve	$	392.00
133-03-051	3602 East 74	Slavic Village Deve	$	616.00
133-14-012	7917 HARVARD	SLAVIC VILLAGE HOME	$	341.60
117-22-008	16625 EUCLID	SNS PROPERTIES, LLC.	$	1,517.88
106-02-040	RUSSELL & WADE PARK	SPANISH AMERICA GR	$	3,640.14
106-02-126	RUSSELL & WADE PARK	SPANISH AMERICAN GR	$	2,426.76
008-02-013	MENTOR & SCRANTON	SPANISH DISTRICT CO	$	1,837.80
116-15-017	16921 ST. CLAIR AVE	ST. CLAIR & 107TH CO. LLC	$	931.42
119-30-031	QUINCY	ST. JAMES BAPTIST CHURCH	$	385.00
106-07-027	8117/15 Wade Park	St. James Free Church	$	280.00
124-28-023	2774 E. 79TH ST	ST. MARY'S SPIRITUAL	$	896.00
007-16-049	4217 HOWLETT	STATE OF OHIO	$	364.00
016-21-068	3507 W. 48	STATE OF OHIO	$	388.20
104-15-074	1324 E 65	STATE OF OHIO	$	744.80
104-15-143	6111 SCHADE (1 EAST OF)	STATE OF OHIO	$	291.06
106-01-015	1328 E 68	STATE OF OHIO	$	336.00
110-13-046	12329 WOODSIDE	STATE OF OHIO	$	1,203.32
115-12-065	14219 COIT	STATE OF OHIO	$	1,121.20
119-29-094	E.85	STATE OF OHIO	$	520.80
120-11-081	1430 E. 123RD STREET	STATE OF OHIO	$	101.50
121-34-056	NOTRE DAME	STATE OF OHIO	$	269.36
123-19-061	2988 NURSERY AVE	STATE OF OHIO	$	307.24
126-27-064	8016 HOLTON	STATE OF OHIO	$	332.50
130-21-023	SEC OF E. 117TH & KINSMAN	STATE OF OHIO	$	764.40
135-05-014	9822 ORLEANS	STATE OF OHIO	$	756.00
135-16-023	94 PRINCE	STATE OF OHIO	$	302.60
135-16-072	9518 WAY	STATE OF OHIO	$	525.00
126-01-076	2463 E 82ND ST	STATEWIDE CAPITAL INVESTMENTS	$	262.50
015-12-101	3559 FULTON	STEPPING STONE PROP	$	452.70
002-28-088	1984 W 61	STERLING BANK & TRUST	$	332.50
118-25-027	2177 E 73 ST	STOCKYARD HOMES	$	403.20
115-26-086	830 RUDYARD	STOCKYARD HOMES LP	$	369.60
118-24-065	2281 E 14 ST	STOCKYARD HOMES, LP	$	130.20
106-04-002	SUPERIOR & ADDISON	STONEMAN REALTY INC	$	544.18
111-20-069	1073 E 141ST ST	SUMMIT ESTATES LTD.	$	294.00
104-15-116	1268 E 61	SUPERIOR 61ST BEVERAGE	$	380.24

104-16-117	1260 E 61	SUPERIOR 61ST BEVERAGE	$	445.90
004-09-038	1022 FAIRFIELD	SUTTON BUILDERS	$	350.00
112-26-057	E. 146 & JENNE	SYRACUSE ADHESIVE	$	245.00
136-02-080	9914 NELSON AVE	T. JEANS INC.	$	369.60
107-08-034	NWC E. 80 & SUPER	T.S.S. MANAGEMENT	$	1,545.60
127-01-008	E. 79th & Kinsman	Tatmmeek LLC	$	904.06
113-22-051	1136 E 170TH ST	TERRY A. MCFARLAND, TRUSTEE	$	308.00
106-23-017	1691 E 82	TESCO BUILDERS INC	$	630.00
115-07-079	949 E. 147	TESCO BUILDERS, INC.	$	392.00
102-35-121	1765 E. 32	THE ALLEN TRUST	$	262.50
008-05-056	2225 SEYMOUR	THE ASTRUP CO	$	490.36
128-07-007	10618 Shale	The Bank of New York	$	1,333.50
118-24-126	2220 E. 73RD ST	THE BANK OF NEW YORK AS TRUSEE	$	369.60
125-33-047	3455 E 70TH ST	THE BANK OF NEW YORK AS TRUSTEE	$	350.00
107-06-039	8601 KOSCIUSZKO	THE BOARD OF EDUCATION	$	205.80
107-06-044	8505 KOSCIUSZKOV	THE BOARD OF EDUCATION	$	220.50
113-14-086	16009 CORSICA	THE CIT GROUP/CONSUMER FINANCE INC.	$	707.00
005-21-051	2183 W 101ST ST	THE CLEVELAND URBAN RENEWAL	$	344.40
103-22-112	SOUTH OF 2166 EAST 38TH ST	THE FIFTH CHURCH OF GOD	$	254.80
019-05-097	11 KENSINGTON	THE KRONENBERGER CO	$	461.58
019-05-098	11 KENSINGTON	THE KRONENBERGER CO	$	535.92
019-05-099	1133 KENSINGTON	THE KRONENBERGER CO	$	607.96
119-12-007	E.97 WOODLAND	THE PEOPLES INCORP	$	507.64
119-12-008	N.E.C. OF E.97 & WOODLAND	THE PEOPLES INCORP	$	364.56
119-12-096	WEST OF 9716 WOODWARD	THE PEOPLES INCORP	$	470.40
006-05-068	LAWN CT & W 73	THE PIONEER S & L	$	116.48
137-03-105	12513 REXFORD	THE PROVIDENT BANK	$	420.00
103-16-053	3710 CARNEGIE AVE	THE SALVATION ARMY	$	635.04
027-04-067	4041 W 158	THE SECRETARY OF HU	$	347.56
106-02-039	WADE PARK	THE SPANISH AMERICA	$	3,640.14
005-29-009	8608 WILLARD	THE STARK GROUP LLC	$	301.36
112-26-058	1451 Jenne	The Syracuse Adhesi	$	280.00
112-26-059	E. 146 & Jenne	The Syracuse Adhesi	$	280.00
123-28-019	4488 JEWETT	THIRD FEDERAL SAVINGS	$	311.86
002-23-044	7200 WAKEFIELD	THIRD FEDERAL SAVINGS LOAN ASSOCIATES	$	272.58
005-18-014	20 W 106	TIBURZI PARTNERSHIP	$	207.48
135-02-079	9519 BENHAM	TIGER LOCATION CO.	$	220.30
117-39-033	2400 Malden	Tiger Relocation Co	$	502.32
127-16-025	MARAH	TIGER RELOCATION CO	$	616.00
115-02-096	903 E 140 ST	TIGER RELOCATION CO.	$	383.60
115-02-097	901 E 140 ST	TIGER RELOCATION CO.	$	383.60
135-14-059	3696 E 110TH ST	TIGIES HOME DESIGNERS	$	612.50
115-06-013	898 E. 149	Tilton & Tilton	$	490.00

017-25-075	3419 W 97TH ST	TILTON & TILTON INC.	$	369.60
105-18-002	861 E 75	TNICK REALTY INC	$	504.00
125-02-024	2962 E 61 ST	TOWN & COUNTRY INVESTMENTS	$	245.00
104-08-085	4310 ST. CLAIR AVE	TPA BUILDERS	$	443.52
106-04-033	NEC OF ADDISON & STAR	TRACY A. QASEM, INC	$	318.50
106-04-034	NEC OF ADDISON & STAR	TRACY A. QASEM, INC	$	245.00
006-04-063	W 80 & LAWN	TRANSAMERICA FINANCE	$	60.28
107-06-043	8509 KOSCIUSKO	TREASURER- CLEVE MUNICIPAL SCHOOL	$	207.90
119-06-050	E.87	TRIANGLE DEVELOPMENT	$	1,785.00
120-02-046	10910 HULL	TRINITY LJC CORP.	$	515.20
135-03-063	10002 ANDERSON AVE	TRINITY LJC. CORP	$	320.96
124-25-044	6931 KINSMAN	TRINITY LJC. CORP.	$	560.00
004-21-030	1211 AUBURN	TRIPLE CROWN INVEST.	$	705.60
004-21-032	1205 AUBURN	TRIPLE CROWN INVEST.	$	739.20
004-21-033	1201 AUBURN	TRIPLE CROWN INVEST.	$	739.20
124-20-015	S.E.C. OF E.55 & ENSIGN	TRIUMPH CHURCH	$	399.00
109-20-034	918-954 LINN	TRUE VINE MISSIONARY	$	350.00
109-20-035	954 LINN	TRUE VINE MISSIONARY	$	350.00
109-20-037	954 LINN	TRUE VINE MISSIONARY	$	341.26
132-18-082	3897 E. 66	Trust Company Manuf	$	671.32
105-26-003	E 69 & ST CLAIR	TURSKE FAMILY	$	1,756.32
105-26-002	E 69 & ST CLAIR	TURSKE FAMILY LIVING	$	748.66
108-27-051	10728 Bryant	U S Bank National A	$	322.08
111-06-134	479 E 120TH ST	U.S. BANK NATIONAL ASSOCIATES	$	280.00
117-12-025	1886 COLONADE	U.S. BANK NATIONAL ASSOCIATION	$	462.00
022-19-124	13814 LEROY	UMC-UNIVERSAL MORTGAGE CORPORATION	$	306.26
001-26-007	3071 SEYMOUR	UNDER PAR PROPERTIES	$	143.22
007-26-007	3071 SEYMOR	UNDER PAR PROPERTIES LTD	$	143.22
135-19-044	10410 WAY	UNION-MILES DEVELOP	$	316.40
136-15-100	98 Pratt	Union-Miles Home	$	840.00
136-16-115	4 E. 104	Union-Miles Home	$	420.00
135-16-024	941 PRINCE	UNION-MILES HOMES	$	302.60
136-13-044	9418 GAYLORD	UNION-MILES HOMES	$	1,761.06
136-14-045	98 PRAT	UNION-MILES HOMES	$	1,202.32
136-15-126	E. 100 & PRATT	UNION-MILES HOMES	$	350.00
136-16-071	4102 E. 104	UNION-MILES HOMES	$	980.00
115-04-084	E 141 & COIT	UNITED COMPANIES	$	380.52
123-27-009	N.W.C. OF BROADWAY & DILLE	UNITED TRUCK WASH	$	322.56
136-15-069	4115 E. 100	Unival Realty Co.	$	907.20
121-20-097	EAST OF 10624 FRANK	UNIVERSITY CIRCLE	$	1,190.00
121-20-132	E.108 & ARTHUR	UNIVERSITY CIRCLE	$	523.60
121-21-048	E.108 & ARTHUR	UNIVERSITY CIRCLE	$	187.46
135-02-129	9711 ORLEANS AVE	UNIVERSITY SETTLEMENT	$	380.80

106-02-075	6811 WHITNEY	UPSCALE PROPERTIES	$	336.00
006-20-124	W 48 & LORAIN	URBAN COMMUNITY SCH	$	218.78
006-20-125	W 48 & LORAIN	URBAN COMMUNITY SCH	$	350.00
006-20-121	W 48 & LORAIN	URBAN COMMUNITY SCHOOL	$	168.00
006-20-122	W. 48 & LORAIN CT.	URBAN COMMUNITY SCHOOL	$	245.00
006-20-123	W. 48 & LORAIN CT.	URBAN COMMUNITY SCHOOL	$	245.00
127-15-045	9507 FULLER	URBAN INVESTMENTS GROUP	$	378.00
005-17-040	2108 W 105TH ST	URBAN RENEWAL PROPERTIES, LLC	$	292.68
109-06-034	1064 E. 99	US BANK, NA	$	358.40
119-09-014	S.E.C. OF E.89 & HOUGH	V2R ENTERPRISES, LLC.	$	538.66
103-31-100	E 39	VALE FOREST CONTRACTOR	$	297.50
104-28-063	E. 47 & LEXINGTON	VERLOK, LLC	$	113.12
019-09-001	BELLAIRE & CRES	VILLAGE OF LINNDALE	$	960.96
130-10-030	E. 135 & KINSMAN	VINEYARD, INC	$	578.20
118-18-042	5 HAWTHORNE	VOCATIONAL GUIDANCE	$	638.40
118-18-066	E 61 & HAWTHORNE	VOCATIONAL GUIDANCE	$	546.22
118-18-067	E 57 &HAWTHORNE	VOCATIONAL GUIDANCE	$	1,078.00
118-18-088	LONGFELLOW	VOCATIONAL GUIDANCE	$	315.00
118-18-089	5814 LONGFELLOW	VOCATIONAL GUIDANCE	$	539.00
016-21-009	3515 W 50	WACHOVIA BANK	$	400.40
005-18-018	2023 W 106TH ST	WACHOVIA BANK OF DELAWARE	$	207.48
015-02-105	3800 CARLYLE	WACHOVIA BANK OF DELAWARE	$	187.12
112-18-010	E. 140 & WESTROPP	WADE PARK PROPERTIES	$	998.76
120-08-060	1411/1423 E.111	WADE PARK PROPERTIES	$	945.00
004-20-030	AUBURN & SCRANTON	WAGNER INDUSTRIES L	$	854.56
106-19-028	DANBURY CT	WAKE FOREST CONTRAC	$	784.00
115-02-011	876 E 144TH ST	WALTER C. CLARK DBA CLARK PROPERTIES	$	372.40
124-26-002	EAST OF 7001 COLFAX	WARD 5 HOPE LTD.	$	525.00
133-26-002	91 & Loren	Weingold & Company	$	2,219.00
006-02-017	2125 W 85TH ST	WELLS FARGO BANK	$	304.92
105-27-135	1057 E. 71ST ST	WELLS FARGO BANK	$	521.44
107-14-046	1322 E. 86	WELLS FARGO BANK	$	319.20
111-28-074	14752 COIT	WELLS FARGO BANK	$	619.92
117-05-016	1743 ALGONAC	WELLS FARGO BANK	$	280.84
129-24-008	12508 Forest	Wells Fargo Bank	$	297.50
129-28-081	12506 Imperial	Wells Fargo Bank	$	294.00
132-22-066	4068 E 57 ST	WELLS FARGO BANK	$	245.00
141-07-006	4233 E 160 (SOUTH OF)	WELLS FARGO BANK MINNESOTA	$	437.50
012-26-074	4301 BURGER	WELLS FARGO BANK, MINNESOTA	$	462.00
009-29-001	SPRING RD TO W 11	WEST 11TH STREET LT	$	3,049.20
138-23-059	4400 E 146 ST	WEST 48TH LTD.	$	237.30
104-17-025	E. 65 & WADE PARK	WESTERN RESERVE	$	308.00
104-22-034	5107 LUTHER	WESTERN RESERVE	$	469.00

118-07-043	E. 70	WESTERN RESERVE	$	1,434.72
107-06-166	8216 MEDINA	WESTERN RESERVE REV	$	532.00
108-02-095	669 E. 91	WHITE ELEPHANT DEVE	$	220.50
138-10-023	4072 E. 131	WILLIAM SPECIALTY M	$	448.00
135-16-004	3739 E 93 (SOUTH OF) ST	WILLIAMS CHAPEL CHURCH	$	4,250.40
005-16-069	2180 W 104TH ST	WILLOWPARK PROPERTIES	$	276.86
026-08-018	ROCKY RIVER SEDALIA	WINSOR REALTY	$	1,489.68
002-29-056	6020 LAKEFIELD	WM SPECIALTY MORTGAGE	$	229.60
104-20-004	1791 E. 55	WORLD PENTECOSTAL	$	372.40
136-01-048	9322 NELSON	WORLD PENTECOSTAL	$	369.60
123-14-037	E.50 & PRAHA	WYLES BROS. BLDG. CO.	$	252.00
105-26-036	1092 E 71 ST	YEPEZ OHIO, LLC.	$	369.60
022-02-033	14012 LAKOTA	YORK MANAGEMENT GRO	$	320.96
125-35-079	7024 IVY	YORK MANAGEMENT GROUP	$	343.36
002-34-092	1948 W 47	Z PROPERTY TRUST	$	277.20
016-16-007	3403 W 65	Z PROPERTY TRUST	$	282.80
143-06-002	16701 MILES	ZION MEMORIAL PARK	$	437.50
143-06-003	MILES & WYATT	ZION MEMORIAL PARK	$	437.50
143-06-004	MILES & WYATT	ZION MEMORIAL PARK	$	656.26
143-06-007	WYATT & MILES	ZION MEMORIAL PARK	$	656.26

City of Cleveland Certification List - Board Up Liens 2006 (Corporations List)

P.P.N.	Balance	Invoice Date	Owner Name	Property Address
109-23-067	256.00	2005-09-15	1197 EAST 112TH ST LAND TRUST	1197 EAST 112TH ST
128-13-046	758.00	2006-02-08	2 EXCEL GROUP LLC	9722 STOUGHTON AVE
017-03-085	856.00	2006-02-10	2138 WEST 85 LLC	3159 WEST 94TH ST
017-03-085	307.00	2006-03-16	2138 WEST 85 LLC	3159 WEST 94TH ST
134-05-074	161.00	2006-02-03	4ahi- AGENCY HOMES INC	4110 EAST 81ST ST
001-29-023	460.00	2006-01-20	A & B CO C/O ALBERT SAFKO	9610 MADISON AVE
139-01-017	186.00	2006-08-01	A J 3M LMTD	3540 EAST 144TH ST
113-04-021	904.00	2006-06-16	ABERDEEN INVESTMENTS INC	17653 LAKEPORT AVE
004-20-068	153.00	2005-09-14	AC USA LLC	1630 AUBURN AVE
121-20-125	431.50	2006-01-30	AGENCY RENOVATION	10625 ARTHUR AVE
123-19-067	194.50	2006-09-07	AGENCY RENOVATION	2964 NURSERY ST
125-12-036	371.00	2005-10-12	AGENCY RENOVATION	6539 ROGERS AVE
125-12-036	186.00	2006-08-14	AGENCY RENOVATION	6539 ROGERS AVE
126-06-011	228.00	2006-08-21	AGENCY RENOVATION	2537 EAST 86TH ST
136-15-003	201.50	2006-01-20	AGENCY RENOVATION	9910 HARVARD AVE
126-05-108	897.50	2006-08-09	ALASKA SEABOARD PARTNERS	8621 FOLSOM AVE
115-24-018	641.00	2006-06-21	AL'S CONSTRUCTON LTD	15609 SCHOOL AVE
137-20-080	161.00	2006-02-02	ALYCE ENTERPRISES LLC C/O EDWARD LAURENC	11804 ANGELUS AVE
137-20-080	161.00	2006-08-01	ALYCE ENTERPRISES LLC C/O EDWARD LAURENC	11804 ANGELUS AVE
128-18-020	427.00	2006-09-07	AMERICAN GENERAL FINANCE	10501 MT AUBURN AVE
117-12-010	758.50	2006-06-21	AMERIGUEST FUNDING	1826 COLONNADE RD
106-03-078	194.50	2006-02-10	AMERIQUEST FUNDING	7207 DULUTH AVE
135-07-049	546.00	2006-08-25	AMERIQUEST FUNDING II REO SUBSIDIARY	3520 EAST 104TH ST
016-12-163	194.50	2006-08-31	AMERIQUEST FUNDING TO REO SUBSIDIARY LLC	4636 STORER AVE
014-12-042	189.50	2006-06-06	AQUA SANTI BUILDERS LLC	3438 BROADVIEW CT
014-12-043	152.50	2006-06-06	AQUA SANTI BUILDERS LLC	3436 BROADVIEW CT
132-09-015	1,099.00	2006-07-27	ARCHER IV LLC	3788 EAST 52ND ST
002-34-095	153.00	2005-09-14	ARGENT MORTGAGE CO	1956 WEST 47TH ST
002-34-095	605.50	2006-03-22	ARGENT MORTGAGE CO	1956 WEST 47TH ST
142-14-046	956.00	2006-08-25	ARU BOMBAE MGMT & CONSULTING	4388 EAST 158TH ST
118-25-072	154.00	2006-08-31	ATL HOLDINGS LLC	7302 CEDAR AVE
008-10-013	264.00	2005-09-14	B J G REALTY LTD	3179 WEST 25TH ST
127-21-006	151.00	2006-08-30	BANK OF NEW YORIK	11308 KINSMAN RD
112-23-138	206.00	2006-06-16	BANK OF NEW YORK	14114 HALE AVE
127-20-012	976.00	2006-06-28	BANK OF NEW YORK	11002-04 KINSMAN AVE
128-01-125	154.00	2006-08-09	BANK OF NEW YORK	10407 CRESTWOOD AVE
128-01-125	798.00	2006-09-01	BANK OF NEW YORK	10407 CRESTWOOD AVE
128-11-051	648.00	2006-06-28	BANK OF NEW YORK	2840 EAST 100TH ST
128-25-084	613.00	2006-06-28	BANK OF NEW YORK	11328 CONTINENTAL AVE

109-12-013	396.00	2006-08-25	BANK OF NEW YORK - TR	10519 AMOR AVE
005-14-152	416.00	2006-03-22	BANK OF NEW YORK AS TRUSTEE	3153 WEST 106TH ST (F & R)
132-30-110	711.00	2006-02-03	BANK OF NEW YORK AS TRUSTEE	6920 BERDELLE AVE
139-02-009	631.00	2005-10-24	BANK OF NEW YORK- TR	3655 EAST 140TH ST
119-27-070	307.00	2006-01-30	BANK ONE	8011 CENTRAL AVE
119-27-070	194.50	2006-04-11	BANK ONE	8011 CENTRAL AVE
135-26-062	161.00	2006-08-31	BANK ONE	9206 PRINCE AVE
121-18-033	837.00	2006-06-22	BANK ONE NA TRUSTEE	2240 EAST 105TH ST
136-13-089	161.00	2006-08-25	BANK ONE NATIONAL ASSOCIATION	9327 PRATT AVE
112-24-005	206.00	2006-08-14	BANK ONE NATIONAL ASSOCIATION AS TRS	14318 WESTROPP AVE
112-24-005	161.00	2006-09-01	BANK ONE NATIONAL ASSOCIATION AS TRS	14318 WESTROPP AVE
135-10-023	1,101.00	2006-09-01	BANK ONE TRUSTEE	3542 EAST 112TH ST
135-10-023	382.00	2006-08-01	BANK ONE TRUSTEE	3542 EAST 112TH ST
129-15-136	273.00	2006-06-28	BANKERS TRUST CO	2838 EAST 124TH ST
107-17-119	467.50	2006-01-30	BENJAMEN ESTATES & PROPERTY MANAGEMENT	9109 BIRCHDALE AVE
107-17-119	317.50	2006-06-12	BENJAMEN ESTATES & PROPERTY MANAGEMENT	9109 BIRCHDALE AVE
018-05-080	153.00	2006-06-08	BENJAMIN L. LAWRENCE PROPERTIES LLC	3416 WEST 118TH ST
125-05-042	151.00	2006-08-14	BIG DAWG III INC	3111 EAST 63RD ST
125-05-042	1,011.00	2006-09-01	BIG DAWG III INC	3111 EAST 63RD ST
125-05-042	206.00	2006-09-07	BIG DAWG III INC	3111 EAST 63RD ST
128-12-016	916.00	2006-03-16	BUILDERS CONSULTING SERVICE LLC	2965-69 WOODHILL AVE
110-19-046	206.00	2006-06-14	BUNCHCORP HOUSING LLC	11409-11 TEMBLETT AVE
110-02-017	186.00	2005-10-12	CEDARVIEW DEVELOPMENT	617 EAST 113TH ST
126-31-069	268.00	2006-06-28	CEDARVIEW DEVELOPMENT INC	2889 EAST 83RD ST
015-04-061	916.00	2006-09-07	CENTREX HOME EQUITY LLC	3271 WEST 34TH ST
016-17-082	1,320.00	2006-02-10	CERTIFIED HOUSING SOLUTIONS LLC	3556 WEST 56TH ST
136-26-118	251.00	2006-08-25	CHARTER ONE BANK	4267 EAST 114TH ST
002-28-026	605.00	2006-08-31	CHARTER ONE BANK FSB	1938 WEST 58TH ST
125-33-079	201.50	2006-01-30	CHASE BANK OF TEXAS	3449 EAST 69TH ST
005-30-058	206.00	2006-02-03	CHASE BANK TRUSTEE C/O WILSHIRE CREDIT	2092 WEST 89TH ST
116-22-001	556.00	2006-06-21	CHASE MANHATTAN BANK	879 LONDON RD
116-22-001	206.00	2006-08-07	CHASE MANHATTAN BANK	879 LONDON RD
001-19-009	971.50	2005-09-14	CHELSEA PARTNERS LTD	11109 LAKE AVE
135-18-040	921.00	2006-08-25	CHRISTIAN FORECLOSURE NETWORK INC	10208 GAY AVE
112-03-026	151.00	2006-02-03	CHRISTIANA BANK & TRUST CO	13721 KELSO AVE
105-30-113	161.00	2006-02-03	CHRISTIANA BANK & TRUST CO TRUSTEE	962 EAST 77TH ST
105-30-113	502.00	2006-08-25	CHRISTIANA BANK & TRUST CO TRUSTEE	962 EAST 77TH ST
115-18-014	530.00	2006-02-03	CHRISTOPHER BROCK C/O GEAUGA SAV ASSOC	1014 IVANHOE RD
121-20-162	192.00	2005-09-15	CIT GROUP/CONSUMER FINANCE	10629 HUDSON AVE
134-13-022	196.00	2006-09-07	CITIBANK N. A TRUSTEE	7906 BEMAN AVE
109-03-023	876.00	2006-06-14	CITIBANK, N.A. AS TRUSTEE	10111 COLUMBIA AVE
107-03-056	301.00	2006-09-07	CITIFINANCIAL MORTGAGE CO	987 IDA AVE

128-27-085	806.50	2006-06-28	CITIFINANCIAL MORTGAGE CO	11430 FOREST AVE
005-27-011	190.00	2006-08-07	CLARK-SPRECHER CO LLC	2041 WEST 98TH ST
115-17-004	770.50	2006-03-16	CLASSIC FUNDING LLC	1087 EAST 148TH ST
107-06-040	777.50	2006-09-07	CLEVELAND BOARD OF EDUCATION	8517 KOSCIUSZKO AVE
107-06-043	427.00	2006-03-22	CLEVELAND BOARD OF EDUCATION	8509 KOSCUSZKO AVE
107-06-043	695.50	2006-09-07	CLEVELAND BOARD OF EDUCATION	8509 KOSCUSZKO AVE
107-06-044	194.50	2006-09-07	CLEVELAND BOARD OF EDUCATION	8505 KOSCIUSZKO AVE
006-04-119	273.00	2006-08-21	CLEVELAND HOUSING NETWORK	7820 EVE AVE
008-11-099	190.00	2006-09-01	CLEVELAND HOUSING NETWORK	1802 BUHRER AVE
008-13-056	329.00	2006-08-31	CLEVELAND HOUSING NETWORK	1231 BUHRER AVE
115-06-061	196.00	2006-08-07	CLEVELAND HOUSING NETWORK	923 EAST 146TH ST
125-30-012	266.00	2006-08-09	CLEVELAND HOUSING NETWORK	3347 EAST 65TH ST
125-30-012	631.00	2006-08-25	CLEVELAND HOUSING NETWORK	3347 EAST 65TH ST
132-14-102	746.00	2006-08-25	CLEVELAND HOUSING NETWORK	6625 HOSMER AVE
133-02-029	161.00	2005-10-24	CLEVELAND HOUSING NETWORK	3543 EAST 74TH ST
134-19-020	588.00	2006-08-30	CLEVELAND HOUSING NETWORK	4394 WARNER RD
138-13-094	161.00	2006-08-30	CLEVELAND HOUSING NETWORK	11620 ROBERTSON AVE
141-08-004	446.50	2006-09-07	CLEVELAND HOUSING NETWORK	4189 EAST 160TH ST
125-26-040	221.00	2006-09-01	CLEVELAND HOUSING NETWORK INC	5974 ENGLE AVE
107-17-115	761.00	2006-08-21	CLEVELAND MANAGEMENT & CONSTRUCTION LLC	9125 BIRCHDALE AVE
117-28-006	310.50	2006-06-21	CLIFFIVEW III LP	1865 CLIFFVIEW RD
117-28-004	310.50	2006-06-21	CLIFFVIEW III LP	1875 CLIFFVIEW RD
117-28-005	310.50	2006-06-21	CLIFFVIEW III LP	1901 CLIFFVIEW RD
116-31-041	206.00	2006-09-01	COLLINWOOD & NOTTINGHAM VILLAGES DEV	18411 MELVILLE RD
115-08-014	206.00	2006-09-01	COLLINWOOD COMMUNITY SERVICE	736-42 EAST 152ND ST
115-22-037	451.00	2005-11-11	COLLINWOOD COMMUNITY SERVICES	823 EAST 152ND ST
115-22-037	2,608.00	2006-02-03	COLLINWOOD COMMUNITY SERVICES	823 EAST 152ND ST
121-19-068	982.00	2006-06-22	CONTINENTAL FINANCIAL LLC	2280 EAST 105TH ST
134-23-010	206.00	2006-09-01	COUNTRYWIDE HOME LOANS	8215 VINEYARD AVE
125-31-031	606.00	2006-08-25	COURTLAND PROPERTIES LLC	6909 TEMPLE AVE
110-17-070	196.00	2005-11-11	CREDIT-BASED ASSET SERVICING	873 EAST 129TH ST
110-17-070	221.00	2006-08-25	CREDIT-BASED ASSET SERVICING	873 EAST 129TH ST
007-07-109	153.00	2006-06-02	CROCK REAL ESTATE INVESTMENTS LLC	3609 CHATHAM AVE
002-34-076	273.00	2006-08-21	D & N SAVINGS BANK	1975 WEST 48TH ST
005-22-137	232.00	2006-03-16	DAL INVESTMENTS INC	2112 WEST 98TH ST
005-22-137	304.00	2006-04-11	DAL INVESTMENTS INC	2112 WEST 98TH ST
133-05-105	263.00	2006-03-22	DANLY INVESTMENTS	3622 EAST 76TH ST
134-09-022	398.00	2005-10-12	DBST PROPERTIES LTD	4218 EAST 93RD ST
110-27-120	161.00	2006-02-03	DEL NORTE REFI INC	12311 CHESTERFIELD AVE
106-07-124	191.00	2006-08-30	DELTA FUNDING CORP	1385 EAST 84TH ST
119-29-141	148.00	2005-10-14	DESTINY VENTURES LLC	2214 EAST 84TH ST
105-24-114	678.00	2006-03-20	DEUTSCHE BANK NATIONAL	1118 EAST 66TH ST

105-24-114	483.50	2006-08-31	DEUTSCHE BANK NATIONAL	1118 EAST 66TH ST
115-03-014	641.00	2005-10-12	DEUTSCHE BANK NATIONAL TRS	944 EAST 144TH ST
115-03-014	151.00	2006-08-14	DEUTSCHE BANK NATIONAL TRS	944 EAST 144TH ST
016-16-073	678.50	2006-02-08	DEUTSCHE BANK NATIONAL TRUST	3397 WEST 60TH ST
109-17-119	946.00	2006-08-25	DEUTSCHE BANK NATIONAL TRUST	10909 HAMPDEN AVE
115-01-040	161.00	2006-08-07	DEUTSCHE BANK NATIONAL TRUST	835 EAST 141ST ST
115-02-076	1,413.00	2006-02-07	DEUTSCHE BANK NATIONAL TRUST	847 EAST 141ST ST
115-02-076	161.00	2006-08-07	DEUTSCHE BANK NATIONAL TRUST	847 EAST 141ST ST
120-10-135	855.00	2005-11-07	DEUTSCHE BANK NATIONAL TRUST	11808 KELTON AVE
127-27-030	1,216.00	2006-08-25	DEUTSCHE BANK NATIONAL TRUST	11305 UNION AVE
129-27-076	196.00	2006-08-31	DEUTSCHE BANK NATIONAL TRUST	11831 IMPERIAL AVE
135-13-076	501.00	2006-08-01	DEUTSCHE BANK NATIONAL TRUST	3681 EAST 113TH ST
111-18-020	161.00	2006-08-30	DEUTSCHE BANK NATIONAL TRUST CO	375 CLEVELAND RD
116-09-031	161.00	2006-08-30	DEUTSCHE BANK NATIONAL TRUST CO	726 EAST 155TH ST
133-07-042	536.00	2006-08-25	DEUTSCHE BANK NATIONAL TRUST CO	3614 EAST 82ND ST
123-23-011	725.00	2006-08-31	DEUTSCHE BANK NAT'L TRUST	5421 MAGNET AVE
123-23-011	273.00	2006-06-22	DEUTSCHE BANK NAT'L TRUST	5421 MAGNET AVE
128-04-081	192.00	2006-08-21	DEUTSCHE BANK TRUST	2647 EAST 115TH ST
128-02-130	603.00	2006-09-07	DEUTSCHE BANK TRUST CO	10715 HULDA AVE
138-14-021	161.00	2006-08-01	DEUTSCHE BANK TRUST CO	4284 EAST 122ND ST
106-13-006	1,351.50	2006-06-12	DEUTSCHE NATIONAL BANK	6910 LAWNVIEW AVE
128-01-107	938.00	2006-06-28	DOUBLE D INVESTMENTS INC	10602 CRESTWOOD AVE
128-01-107	1,001.00	2006-08-09	DOUBLE D INVESTMENTS INC	10602 CRESTWOOD AVE
125-34-048	676.00	2006-09-07	D-THOMAS REALTY LLC	3417 EAST 71ST ST
119-33-098	307.00	2006-06-22	E F BOYD & SON INC	2189 EAST 89TH ST
115-26-017	161.00	2006-08-14	E M C MORTGAGE CORP	15806 ST CLAIR AVE
133-26-032	771.00	2006-07-27	E M C MORTGAGE CORP	3870 EAST 93RD ST
128-14-099	517.50	2006-06-28	EASTERN MONICA LLC	2889 EAST 102ND ST
017-05-082	1,183.00	2006-06-06	ELEANORE CERNANEC	3245 WEST 88TH ST
125-12-123	658.00	2005-10-12	EMC MORTGAGE CORP	6532 PHILETUS AVE
125-12-123	161.00	2006-08-14	EMC MORTGAGE CORP	6532 PHILETUS AVE
133-04-003	161.00	2005-09-15	EMC MORTGAGE CORP	7516 UNION AVE
128-07-039	307.00	2006-06-28	ENTERPRISE INTERNATIONAL OF OHIO LLC	10701 SHAKER BLVD
128-07-039	1,046.00	2006-08-31	ENTERPRISE INTERNATIONAL OF OHIO LLC	10701 SHAKER BLVD
128-07-039	1,138.00	2006-09-07	ENTERPRISE INTERNATIONAL OF OHIO LLC	10701 SHAKER BLVD
021-36-025	263.00	2005-09-14	ENVIRO-SCIENCE INC	3401 WEST 140TH ST
021-36-025	394.50	2006-04-11	ENVIRO-SCIENCE INC	3401 WEST 140TH ST
021-36-025	153.00	2006-06-08	ENVIRO-SCIENCE INC	3401 WEST 140TH ST
021-36-025	232.00	2006-09-07	ENVIRO-SCIENCE INC	3401 WEST 140TH ST
110-20-038	151.00	2006-06-14	EQUICREDIT CORP OF OHIO	11610 HOPKINS AVE
109-22-096	246.00	2006-06-14	EQUICREDIT CORPORATION OF AMERICA	1125 EAST 112TH ST
007-01-092	189.50	2005-10-24	EQUITY ONE CHASE MANHATTEN MORTGAGE	4300 APPLE AVE

007-01-092	385.00	2006-08-31	EQUITY ONE CHASE MANHATTEN MORTGAGE	4300 APPLE AVE
121-16-060	503.00	2006-02-08	EQUITY TRUST CO	2215 EAST 97TH ST
139-10-074	186.00	2005-09-15	FAITH COMMUNITY UNITED CREDIT UNION	3553 EAST 144TH ST
016-11-021	190.00	2006-03-22	FANNIE MAE	3115 WEST 58TH ST
016-11-021	227.00	2006-08-31	FANNIE MAE	3115 WEST 58TH ST
133-20-112	616.00	2006-08-31	FANNIE MAE	7629 SPAFFORD RD
141-19-002	196.00	2006-08-31	FANNIE MAE	17305 LOTUS AVE
137-25-002	251.00	2006-08-25	FANNIE MAE AKA FEDERAL NATIONAL MORTGAGE	13602 COATH AVE
107-25-022	236.00	2006-06-12	FEDCO SERVICES LLC & PERFECT GENTLEMEN	1570 EAST 105TH ST
116-22-006	151.00	2006-08-07	FEDERAL HOME LOAN MORTGAGE	16608 WESTFIELD AVE
015-04-171	221.00	2005-09-15	FEDERAL HOME LOAN MORTGAGE CORP	3403 CARLYLE AVE
015-04-171	227.00	2006-06-06	FEDERAL HOME LOAN MORTGAGE CORP	3403 CARLYLE AVE
014-02-048	226.50	2006-08-31	FEDERAL NATIONAL MORGAGE ASSOC	3809 PHILENA AVE
004-19-092	152.50	2006-08-31	FEDERAL NATIONAL MORTGAGE ASSOC	2481 WEST 6TH ST
018-05-036	307.00	2006-03-16	FEDERAL NATIONAL MORTGAGE ASSOC	3400-02 WEST 117TH ST
131-30-024	714.50	2006-08-31	FEDERAL NATIONAL MORTGAGE ASSOC	3658 EAST 47TH ST
133-18-109	690.00	2006-08-30	FEDERAL NATIONAL MORTGAGE ASSOC	3974 EAST 74TH ST
108-24-065	151.00	2006-08-30	FEDERAL NATIONAL MORTGAGE ASSOCIATION	10204 FOLK AVE
108-24-065	161.00	2006-08-07	FEDERAL NATIONAL MORTGAGE ASSOCIATION	10204 FOLK AVE
005-17-185	232.00	2006-08-21	FIFTH THIRD MORTGAGE	2124 WEST BLVD
121-20-156	192.00	2006-01-30	FIRST CHOICE MGMT SERV	10603 HUDSON AVE
121-20-156	538.00	2006-08-31	FIRST CHOICE MGMT SERV	10603 HUDSON AVE
115-19-002	243.00	2006-09-07	G Z T INC	1130 IVANHOE RD
115-29-015	1,286.00	2006-02-07	GARFIELD HTS EMPLOYEES CREDIT UNION	984 RONDEL RD
127-23-162	232.00	2006-06-28	GMAC MORTGAGE	9717 UNION AVE
127-23-162	-232.00	2006-07-27	GMAC MORTGAGE	9717 UNION AVE
119-09-053	1,242.00	2006-06-22	GMAC MORTGAGE CORP	1775 EAST 90TH ST
110-21-039	1,702.00	2006-06-14	GREEN TREE SERVICING LLC	11420 TUSCORA AVE
137-08-097	411.00	2006-08-09	GREEN TREE SERVICING LLC	3692 EAST 117TH ST
115-14-002	711.00	2006-06-21	GRP REALTY LLC	14521 COIT RD
006-03-113	703.00	2006-08-31	H2 INVESTMENTS INC	2072 WEST 83RD ST
131-21-042	239.00	2005-11-15	H2 INVESTMENTS INC	3429 EAST 53RD ST
131-21-042	190.60	2006-02-16	H2 INVESTMENTS INC	3429 EAST 53RD ST
133-16-023	676.00	2006-08-25	HAGGINS PROPERTIES LLC	7600 DERCUM AVE
110-22-031	1,002.00	2006-06-14	HAGGINS PROPERTIES NO 2 LLC	11902-04 OHLMAN AVE
112-01-137	161.00	2006-08-14	HARGE, SOLOMON & COVENANT II LLC	576 EAST 140TH ST
131-20-091	249.50	2006-01-30	HARVARD CORP C/O JEANNE COMPTON	3410 EAST 52ND ST
131-20-091	221.00	2006-08-21	HARVARD CORP C/O JEANNE COMPTON	3410 EAST 52ND ST
135-08-107	161.00	2006-08-09	HEARTS FOR HOMES TRS	3651 EAST 104TH ST
107-16-180	1,026.00	2006-06-12	HOME EQ SERVICING CORP	1527 EAST 86TH ST
131-32-063	221.00	2005-11-04	HOMEAMERICAN CREDIT INC	3721 EAST 50TH ST
125-19-044	267.00	2006-02-16	HOMECOMINGS FINANCIAL NETWORK	2993-95 EAST 75TH ST

123-22-046	1,057.00	2005-11-07	HOUSEHOLD REALTY CORP	5153 FOWLER AVE
115-11-005	1,102.50	2005-09-14	INSPIRATION COMM SERV CENTER	928 EAST 152ND ST
129-18-034	191.00	2006-06-28	INTERVEST PROPERTIES LLC	11703 HONEYDALE AVE
005-29-003	656.00	2006-03-20	INVESTOR'S ONE CORP	8804 WILLARD AVE
104-07-041	576.50	2006-06-08	J & M ELITE BLDG CO LTD	1407 EAST 40TH ST
104-07-041	342.00	2006-08-25	J & M ELITE BLDG CO LTD	1407 EAST 40TH ST
107-14-092	192.00	2006-08-30	J P MORGAN CHASE BANK	1351 EAST 88TH ST
109-12-108	1,546.00	2006-06-14	J P MORGAN CHASE BANK	10515-17 GOODING AVE
115-21-018	1,001.00	2006-08-07	J P MORGAN CHASE BANK	15311 SCHOOL AVE
118-33-088	1,638.50	2006-06-21	J P MORGAN CHASE BANK	7303 MONTGOMERY AVE
120-07-016	956.00	2006-09-01	J P MORGAN CHASE BANK	10725 LEE AVE
134-10-074	161.00	2006-08-21	J P MORGAN CHASE BANK	4191 EAST 74TH ST
134-13-054	718.00	2006-02-03	J P MORGAN CHASE BANK	8010 DORVER AVE
134-13-054	551.00	2006-08-01	J P MORGAN CHASE BANK	8010 DORVER AVE
117-42-045	161.00	2006-09-07	J P MORGAN CHASE BANK TRS	2551 GREENVALE RD
109-09-097	276.00	2006-08-14	J P MORGAN CHASE BANK TRUSTEE	10316 NORTH BLVD
110-15-178	161.00	2006-09-01	J P MORGAN CHASE BANK TRUSTEE	13003 WOODSIDE AVE
131-33-118	314.00	2006-01-30	JIRI REALTY CO C/O JOHN'S CAFE	3658 EAST 52ND ST
016-12-039	641.50	2006-03-20	JOSE SANITAGO	3334 WEST 48TH ST
005-18-078	153.00	2006-08-31	JOSIP RAMPINI	2034 WEST 103RD ST
105-29-011	269.50	2006-08-21	JUDAH VEST REAL ESTATE SERVICES LLC	1249-51 EAST 71ST ST
110-31-073	931.00	2005-11-07	JUST REASON LLC	1294 EAST 115TH ST
104-11-074	190.00	2006-08-07	KALEIDOSCOPE INFANT & CHILDCARE CNTR	5342 STANARD AVE
119-34-026	303.00	2006-06-22	KARAMU HOUSE INC	9001 QUINCY AVE
138-04-117	161.00	2006-08-01	KEY BANK NATIONAL ASSOCIATION	12700 WATTERSON AVE
015-05-102	486.00	2005-09-14	KEYBANK USA NA	3287 WEST 31ST ST
109-04-178	571.00	2006-09-07	K-JAN RENTAL LLC	10420 KEMPTON RD
017-03-115	154.00	2006-06-06	LANI INC	3152 WEST 95TH ST
131-20-122	1,184.50	2006-08-09	LANI INC	4927 GUY AVE
103-31-042	232.00	2006-02-08	LASALLE BANK	2391-93 EAST 38TH ST
125-35-105	736.00	2006-06-22	LASALLE BANK NAT'L ASSOC	7205 UNION AVE
104-15-113	467.50	2006-04-11	LASALLE BANK NATL ASSOC AS TRUSTEE	1256 EAST 61ST ST
105-02-007	206.35	2006-08-31	LEISURE TIME HOSPITALITY INC	5700 S MARGINAL RD
128-11-037	2,461.00	2006-01-30	LEVY BUILDERS	2866 EAST 100TH ST
128-27-040	808.00	2006-06-28	LIBERTY SAVINGS BANK	2931 EAST 115TH ST
128-13-138	1,061.00	2006-08-25	LINDEN INVESTMENTS LLC	9910 LAMONTIER AVE
130-12-040	273.00	2006-08-30	LINWOOD IMPROVEMENT CORP	13722 KINSMAN RD
126-17-024	1,632.50	2006-08-09	LUVTRON INC	9604 YEAKEL AVE
006-07-023	934.50	2006-06-02	M & M TELUCKSINGH	7321 ELTON AVE
105-21-134	226.50	2006-06-08	MAHDI & ASSOCIATES LTD	1089 EAST 64TH ST
104-19-128	982.50	2006-08-07	MAR DEVELOPMENT INC	6103 WHITTIER AVE
120-15-047	196.00	2006-06-22	MASTER MIND MGMT CORP	10703 WADE PARK AVE

116-10-020	676.00	2005-11-11	MCB MICHAELSON CONNER & BOUL	15622 SARANAC RD
115-18-027	28,066.00	2006-06-21	MCM WAREHOUSE	1109-1115 EAST 152ND ST
005-11-036	1,322.50	2006-06-02	MESSINA INVESTMENTS LLC	11118-24 LORAIN AVE
129-24-001	235.50	2006-06-28	MHAM PROPERTIES	12302 FOREST AVE
128-21-067	228.00	2006-06-28	MHAM PROPERTIES LTD	9704 HILGERT DR
104-15-099	651.00	2005-09-14	MONUMENT STREET FUNDING LLC	1200 EAST 61ST ST
104-15-099	189.00	2005-10-24	MONUMENT STREET FUNDING LLC	1200 EAST 61ST ST
104-15-099	597.00	2006-06-08	MONUMENT STREET FUNDING LLC	1200 EAST 61ST ST
104-15-099	262.50	2006-08-31	MONUMENT STREET FUNDING LLC	1200 EAST 61ST ST
115-03-074	991.00	2006-08-07	MORGAN REALTY LLC	961 EAST 141ST ST
136-02-051	556.00	2006-08-01	MORTGAGE LENDERS NETWORK USA	9809 NELSON AVE
131-20-088	826.00	2006-08-09	MTGLQ INVESTORS LP	3418 EAST 52ND ST
103-06-029	460.50	2006-09-07	NASSIMI CLEVELAND DEV INC	3101 EUCLID AVE
117-06-026	206.00	2006-09-01	NATIONAL CITY BANK	1671 WAYSIDE RD
120-09-050	235.50	2006-08-25	NATIONAL CITY BANK	1404 EAST 115TH ST
138-12-061	547.00	2006-08-01	NATIONAL CITY HOME LOAN SERV	4100 EAST 141ST ST
109-22-101	606.00	2006-06-14	NATIONWIDE CONSTRUCTION	1143 EAST 112TH ST
109-22-101	161.00	2006-08-30	NATIONWIDE CONSTRUCTION	1143 EAST 112TH ST
107-07-035	192.00	2006-08-21	NEW JERUSALEM MISSIONARY BAPTIST CHURCH	1151 EAST 79TH ST
107-07-035	194.50	2006-08-31	NEW JERUSALEM MISSIONARY BAPTIST CHURCH	1151 EAST 79TH ST
124-02-023	194.50	2006-02-16	NOKAOI PROPERTIES	2432 EAST 66TH ST
132-08-027	186.00	2006-08-21	NORTH COAST RENOVATION	3733 EAST 59TH ST
106-09-096	612.00	2006-08-30	NORTHEAST OHIO HOMEBUYERS LTD	1532 EAST 70TH ST
107-06-026	797.00	2006-08-30	NOTABLE REAL ESTATE & DEVELOPMENT	1078 ANSEL RD
016-21-015	153.00	2006-02-16	NSM.PROPERTIES TRS	3539 WEST 50TH ST
016-21-015	153.00	2005-10-24	NSM PROPERTIES TRS	3539 WEST 50TH ST
006-03-074	235.50	2006-08-31	OCWEN FEDERAL BANK	2050 WEST 81ST ST
128-18-069	791.00	2006-01-30	OHIO HOUSING NETWORK LLC	10205 MANOR AVE
129-19-057	835.00	2006-06-28	OHIO HOUSING NETWORK LLC	11903 HONEYDALE AVE
135-19-008	251.00	2006-08-21	OHIO HOUSING NETWORK LLC	10512 SANDUSKY AVE
015-06-044	153.00	2006-02-10	OLD HOMESTEAD DEV CO LTD	4144 MARVIN AVE
006-23-065	232.00	2006-09-07	OLYMPUS SERVICING LP	3040 WEST 51ST ST
121-33-125	201.50	2005-09-15	OPPORTUNITY THROUGH HOUSING	11213 WOODLAND AVE
121-33-126	201.50	2005-09-15	OPPORTUNITY THROUGH HSNG	11209 WOODLAND AVE
121-33-126	235.50	2006-02-16	OPPORTUNITY THROUGH HSNG	11209 WOODLAND AVE
127-22-075	818.50	2006-06-28	P V COMPANY	9415 HEATH AVE
134-14-041	711.00	2006-08-21	PA INVESTMENTS	8209 DORVER AVE
136-07-021	161.00	2006-08-01	PANTHER MONIUM INC	9345 HARVARD AVE
133-17-005	782.00	2006-03-22	PARADISE MANAGEMENT INC	3905 EAST 75TH ST
107-06-025	264.00	2006-08-30	PLEDGE PROPERTY II LLC	1074 ANSEL RD
016-10-138	386.50	2005-09-14	PLEDGED PROPERTY II LLC	3209 WEST 52ND ST
016-10-138	226.00	2006-08-31	PLEDGED PROPERTY II LLC	3209 WEST 52ND ST

133-20-072	616.00	2005-10-20	PLEDGED PROPERTY II LLC	3845 EAST 72ND ST
133-20-072	311.00	2006-08-21	PLEDGED PROPERTY II LLC	3845 EAST 72ND ST
020-16-010	746.00	2005-09-14	POLYKOTE FINISHING SYSTEMS	12400 CROSSBURN AVE
020-16-010	743.00	2006-02-10	POLYKOTE FINISHING SYSTEMS	12400 CROSSBURN AVE
020-16-010	610.50	2006-06-08	POLYKOTE FINISHING SYSTEMS	12400 CROSSBURN AVE
136-01-010	735.00	2005-09-14	PREMIUM TECHNICAL SERV	3891 EAST 93RD ST
121-33-124	835.00	2006-06-22	PROVIDENT BANK	11217 WOODLAND AVE
121-33-124	201.50	2006-01-30	PROVIDENT BANK	11217 WOODLAND AVE
138-12-099	830.80	2006-02-16	PROVIDENT BANK	4118 EAST 138TH ST
132-06-048	1,476.50	2006-01-30	PULASKI FRANCISCAN COMM DEVELOPMENT CORF	6601 CHAMBERS AVE
108-09-026	382.00	2006-02-10	R & R MULTI SERVICES	9917-23 ST CLAIR AVE
121-34-038	239.00	2005-11-15	REBORG ACQUISTIONS & MGMT	11409 WOODLAND AVE
121-34-038	194.50	2006-02-16	REBORG ACQUISTIONS & MGMT	11409 WOODLAND AVE
005-23-121	897.00	2006-06-02	REEDER PROPERTIES INC	2016 WEST 98TH ST
108-08-044	526.00	2005-11-11	REHAB A HOME LTD	610 EAST 101ST ST
137-03-048	746.00	2006-01-20	REHAB A HOME LTD	12714 OAKFIELD AVE
002-35-105	189.00	2006-08-07	RESIDENTIAL FUNDING CORP	1870 WEST 47TH ST
104-15-153	229.00	2006-04-11	RICHARD BROTHERS CONSTRUCTION INC	1260 EAST 61ST ST
005-21-095	3,329.00	2006-04-11	ROCKPORT HOLDINGS LLC	2164-74 WEST 98TH ST
120-08-072	721.00	2005-11-11	RONALD BURRELL LLC	1467 EAST 111TH ST
131-25-018	756.00	2006-03-22	RUETH-BRINZA TRUST UAD	3715 EAST 52ND ST
131-25-018	-756.00	2006-04-20	RUETH-BRINZA TRUST UAD	3715 EAST 52ND ST
131-35-018	756.00	2006-04-20	RUETH-BRINZA TRUST UAD	3715 EAST 52ND ST
131-35-018	161.00	2006-08-30	RUETH-BRINZA TRUST UAD	3715 EAST 52ND ST
021-19-036	218.00	2005-09-14	RYSAR PROPERTIES	11845 BELMONT AVE
109-11-082	586.00	2006-02-03	RYSAR PROPERTIES	10301 OLIVET AVE
004-29-020	6,294.00	2006-06-02	SAI - SCRANTON AVERELL INC	1911 CARTER RD
004-29-020	-6,294.00	2006-07-27	SAI - SCRANTON AVERELL INC	1911 CARTER RD
004-29-020	6,294.00	2006-07-27	SAI - SCRANTON AVERELL INC	1911 CARTER RD
118-16-025	679.00	2006-02-16	SANGO CORPORATION	7701 CARNEGIE AVE
119-30-003	931.00	2006-06-22	SECOND MACEDONIA MISSIONARY BAPT CHURCH	8306 CENTRAL AVE
006-06-086	264.00	2006-06-02	SECRETARY OF H U D	7801 LORAIN AVE
105-31-148	575.00	2006-08-25	SECRETARY OF H U D	1085 EAST 78TH ST
109-23-033	251.00	2006-06-14	SECRETARY OF H U D	1181 EAST 113TH ST
109-23-033	256.00	2006-09-07	SECRETARY OF H U D	1181 EAST 113TH ST
129-16-120	206.00	2006-08-31	SECRETARY OF H U D	2813 EAST 125TH ST
131-31-052	678.00	2006-09-07	SECRETARY OF H U D	3513 EAST 46TH ST
132-04-033	157.00	2005-10-24	SECRETARY OF H U D	6627 BAXTER AVE
132-04-033	196.00	2006-07-27	SECRETARY OF H U D	6627 BAXTER AVE
012-11-013	276.50	2006-01-30	SECRETARY OF HUD	4525 WICHITA AVE
108-28-093	621.00	2006-09-01	SECRETARY OF VETERANS AFFAIRS	685 EAST 109TH ST
125-32-071	1,109.00	2006-01-30	SECRETARY OF VETERANS AFFAIRS	6638 OVINGTON AVE

006-02-135	423.00	2006-08-31	SERVICE FIRST INVESTMENTS LLC	2164 WEST 80TH ST
016-16-098	226.00	2006-03-16	SGR PROPERTIES LLC	3416 WEST 60TH ST
128-10-006	996.00	2006-09-01	SHAE M PROPERTIES INC	2847 WOODHILL RD
006-02-109	633.50	2006-06-02	SN COMMERICAL LLC	2177 WEST 81ST ST
113-19-112	686.00	2006-06-16	STARK GROUP LLC	16123 PARKGROVE AVE
131-21-057	945.00	2006-02-16	STARK GROUP LLC	3420 EAST 53RD ST
136-18-017	613.50	2006-02-07	STARK GROUP LLC	11128 HARVARD AVE
126-01-076	575.00	2006-08-21	STATEWIDE CAPITAL INVESTMENTS LLC	2463 EAST 82ND ST
135-08-150	151.00	2006-08-09	STEEL VALLEY FEDERAL CREDIT UNION	3642 EAST 104TH ST
015-12-102	298.50	2006-06-06	STEPPING STONE PROPERTIES LLC	3555 FULTON RD
115-28-020	651.00	2006-09-01	STEPPING STONE PROPERTIES LLC	901 EVANGELINE RD
021-19-067	1,119.00	2006-08-21	STEVE PROKAY, MGT PARTNERS LLC	11815 SECTOR AVE
119-32-117	194.50	2006-04-11	TALBOTT STURTEVANT	2281 EAST 87TH ST
106-02-020	351.50	2006-02-10	THE FOUNDATION FOR INNER CITY DEV	1358 GIDDINGS AVE
112-21-077	161.00	2005-11-04	THIRD FEDERAL SAVINGS & LOAN	497 EAST 148TH ST
112-21-077	151.00	2006-06-16	THIRD FEDERAL SAVINGS & LOAN	497 EAST 148TH ST
112-21-077	151.00	2006-08-30	THIRD FEDERAL SAVINGS & LOAN	497 EAST 148TH ST
139-05-089	206.00	2006-09-01	THOMAS LOWRY, TRUSTEE	14212 EDGEWOOD AVE
115-02-096	762.00	2006-08-07	TIGER RELOCATION CO	903 EAST 140TH ST
127-16-025	165.00	2005-10-14	TIGER RELOCATION CO	9409 MARAH AVE
127-16-025	154.00	2006-03-22	TIGER RELOCATION CO	9409 MARAH AVE
115-02-097	687.00	2006-08-07	TIGER RELOCATION COMPANY	901 EAST 140TH ST
133-06-035	886.00	2006-08-25	TOWN & COUNTRY INVESTMENTS INC	3528 EAST 82ND ST
134-09-013	151.00	2006-08-01	TRUIMPH THE CHURCH KINGDOM OF GOD	9212 MILES AVE
121-33-094	945.00	2006-08-21	U S BANK N A	11209 MT CARMEL RD
132-01-092	711.00	2005-11-04	U S BANK NATION ASSOCIATION	3593 EAST 61ST ST
108-05-023	151.00	2005-11-15	U S BANK NATIONAL ASSOC	678-80 EAST 97TH ST
115-03-056	439.00	2006-01-30	U S BANK NATIONAL ASSOC	14206 NELL AVE
135-05-093	196.00	2006-08-09	U S BANK NATIONAL ASSOCATION	9703 SANDUSKY AVE
105-24-061	642.00	2006-06-08	U S BANK NATIONAL ASSOCIATION	1047 EAST 67TH ST
105-24-096	175.50	2005-09-14	U S BANK NATIONAL ASSOCIATION	1081 EAST 66TH ST
105-24-096	153.00	2005-10-24	U S BANK NATIONAL ASSOCIATION	1081 EAST 66TH ST
117-12-025	381.00	2005-09-15	U S BANK NAT'L ASSOC TRS	1886 COLONNADE RD
109-23-010	546.00	2005-10-24	UMSTEAD MGMT & CONSTRUCTION	1190-92 EAST 114TH ST
007-26-007	235.50	2006-03-22	UNDER PAR PROPERTIES LTD	3071 SEYMOUR AVE
105-31-065	649.00	2005-09-15	UNDER PAR PROPERTIES LTD	1070 EAST 77TH ST
135-02-033	791.00	2006-08-25	UNION-MILES HOMES II LTD	9715 GIBSON AVE
130-05-001	307.00	2006-03-22	UPSCALE PROPERTIES INC	3225 EAST 125TH ST
130-05-001	856.50	2005-10-14	UPSCALE PROPERTIES INC	3225 EAST 125TH ST
131-22-053	186.00	2005-09-14	URBAN INVESTMENTS	3427 EAST 55TH ST
127-15-045	302.00	2006-06-28	URBAN INVESTMENTS GRP	9507 FULLER AVE
017-21-093	299.00	2006-03-20	VATTEROTT COLLEGE C/O RICHARD POUNTENY	3584 WEST 98TH ST

136-14-088	514.00	2006-02-07	W E B DUBOISE COMMUNITY CENTER	9615 MILES AVE
140-21-099	157.00	2005-10-14	W T B INC	3968 EAST 186TH ST
110-07-034	1,713.00	2006-08-25	WACHOVIA BANK	693 EAST 126TH ST
130-20-007	1,324.50	2005-10-12	WACHOVIA BANK N.A.	11721 UNION AVE
130-20-007	307.00	2006-02-16	WACHOVIA BANK N.A.	11721 UNION AVE
110-17-094	151.00	2005-11-04	WACHOVIA BANK NA	971 EAST 129TH ST
109-10-107	616.00	2006-09-01	WACHOVIA BANK NATIONAL ASSOCIATION	1254 EAST 102ND ST
129-20-070	797.00	2006-08-21	WACHOVIA BANK NATIONAL ASSOCIATION	2953 EAST 125TH ST
002-35-143	190.00	2006-08-30	WACHOVIA BANK NAT'L ASSOC	1874-76 WEST 45TH ST
002-35-143	189.50	2006-08-31	WACHOVIA BANK NAT'L ASSOC	1874-76 WEST 45TH ST
128-18-102	761.00	2006-06-28	WACHOVIA BANK OF DELAWARE	10301 DICKENS AVE
107-12-164	893.50	2006-06-12	WADE PARK PROPERTIES LTD	1388 ANSEL RD
120-09-080	1,036.00	2006-02-03	WADE PARK PROPERTIES LTD	11324 KNOWLTON AVE
115-02-011	613.50	2005-09-15	WALTER C CLARK C/O CLARK PROP INC	876 EAST 144TH ST
115-02-011	1,812.00	2006-06-16	WALTER C CLARK C/O CLARK PROP INC	876 EAST 144TH ST
115-02-011	186.00	2006-08-25	WALTER C CLARK C/O CLARK PROP INC	876 EAST 144TH ST
136-23-007	571.00	2006-08-01	WASHINGTON MUTUAL BANK	10412 ELMARGE RD
112-08-039	151.00	2005-11-11	WELLS FARGO BANK	896 EAST 139TH ST
112-08-039	273.00	2006-02-10	WELLS FARGO BANK	896 EAST 139TH ST
112-08-039	972.00	2006-06-16	WELLS FARGO BANK	896 EAST 139TH ST
132-22-066	826.00	2006-09-01	WELLS FARGO BANK	4068 EAST 57TH ST
138-05-115	651.00	2005-09-15	WELLS FARGO BANK	13313 BENWOOD AVE
138-05-115	161.00	2006-08-21	WELLS FARGO BANK	13313 BENWOOD AVE
105-21-131	808.00	2005-10-14	WELLS FARGO BANK MINNESOTA	1103 EAST 64TH ST
134-13-099	755.00	2006-09-07	WELLS FARGO BANK MINNESOTA	8009 GOODMAN AVE
107-04-091	476.00	2005-09-15	WELLS FARGO BANK MINNESOTA NATL ASSOC	8209-11 SIMON AVE
107-17-120	501.00	2006-06-12	WELLS FARGO BANK, MINNESOTA	9105 BIRCHDALE AVE
108-09-033	241.00	2006-02-03	WELLS FARGO BANK, MINNESOTA	10107 ST CLAIR AVE
109-12-079	161.00	2006-08-14	WELLS FARGO BANK, MINNESOTA	10531 COLUMBIA AVE
110-16-001	196.00	2006-08-14	WELLS FARGO BANK, N. A	875 PAXTON RD
108-02-095	516.00	2006-08-21	WHITE ELEPHANT DEVELOPMENT CORP	669 EAST 91ST ST
107-08-018	947.00	2006-09-07	WM SPECIALTY MORTGAGE LLC	1229 EAST 79TH ST
123-30-067	648.00	2006-02-16	YORK MANAGEMENT GRP LLC	5101 DOLLOFF RD
123-30-067	154.00	2006-06-22	YORK MANAGEMENT GRP LLC	5101 DOLLOFF RD
132-01-060	896.00	2006-08-21	YORK MANAGEMENT GRP LLC	6307 HEISLEY AVE
133-16-083	1,009.50	2006-07-27	YORK MANAGEMENT GRP LLC	8015 SPAFFORD RD

Special Assessment Certification List-Demolition Liens

Section 3103.09(j) of the Codified Ordinances of the City of Cleveland

The following list of Special Assessment charges is hereby certified for collection in one(1) installment to be collected in the Tax Year 2006

Parcel No.	Property Owner	Parcel Address	Lien
007-10-154	IOAN VALENTIN	2614 HANCOCK CT	6,432.00
007-25-081	DANIEL CUPP	2602 VEGA AVE	2,432.00
007-33-090	KAWAL SEECHARAN	3164 WEST 30TH ST	9,432.00
011-07-084	GILBERT FERRARO	4000 BIDDULPH AVE	7,632.00
016-14-017	ANTHONY TYUS	3115 WEST 50TH ST	5,632.00
104-27-107	YUE JUN LIANG	1567 EAST 43RD ST	6,132.00
107-15-119	CHARLES BLACKMON	1434 EAST 88TH ST	346.00
109-11-067	CARL CHARACTER	10306 OLIVET AVE	6,682.00
109-11-125	JASON KIRKSEY	1243-45 EAST 102ND ST	7,931.00
110-07-099	JON WISE	711-13 EAST 124TH ST	5,232.00
110-23-017	VIOLA MAE ROBERSON	955 PARKWAY RD	2,017.00
111-23-004	RONALD CARPENTER	1148 EAST 134TH ST	5,086.00
113-14-121	ROBERT & MARTHA BARNES	16003 PYTHIAS AVE	2,832.00
115-17-017	GEORGIA WRIGHT	1137 EAST 148TH ST	5,732.00
118-34-076	PINHIGH PROPERTIES C/O PATRICK MURPHY	2318 EAST 76TH ST	5,232.00
119-27-025	JODI FLEMING	2251 EAST 80TH ST	461.00
119-27-103	MEREDITH PARTEE & DORIS MARCUS	7917 LUCIA AVE	4,782.00
119-28-115	KARA KING	2208 EAST 81ST ST	576.00
119-28-116	ROBERT L DOSS	2212 EAST 81ST ST	461.00
119-30-120	LAURA TUCKER	2337 EAST 84TH ST	461.00
119-30-150	CAROLYN & WILFRED WILLIAMS	2314 EAST 84TH ST	346.00
119-30-151	GEORGE EVANS C/O DENISE EVANS	2310 EAST 84TH ST	346.00
119-33-030	EVA MAE ATLAS	2252 EAST 93RD ST	1,851.00
119-33-068	ERNESTINE FLEMING	2208 EAST 90TH ST	5,832.00

Special Assessment Certification List-Demolition Liens

Section 3103.09(j) of the Codified Ordinances of the City of Cleveland

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Parcel No.	Property Owner	Parcel Address	Lien
119-34-030	RAYMOND RIVERS	9109 QUINCY AVE	461.00
119-34-031	JUSTINE MODESTY	9201 QUINCY AVE	576.00
120-09-119	WILLIE WALTON JR	1474 EAST 115TH ST	5,732.00
120-14-064	LESA JACKSON	1510 EAST 123RD ST	5,532.00
123-22-094	GARY L THOMAS	5050 PERSHING AVE	3,682.00
123-31-120	MICHAEL EDWARDS	5004 FRAZEE AVE	4,932.00
125-01-069	LATOSHA CHENAULT	6119 CARPENTER AVE	6,282.00
125-10-035	ADRIENNE KITKO	3148 EAST 66TH (FRONT)	4,907.00
125-17-046	ORENE MC GREW	6802 KINSMAN AVE	6,132.00
126-06-014	CLARENCE CATRON C/O GLORIA RUSH	2561 EAST 86TH ST	5,393.00
126-08-048	TONY FARMER	9003 CAPITAL AVE	461.00
126-08-050	MARLON BEST	9011 CAPITAL AVE	461.00
127-11-061	HENRY BARNES	9001 FULLER AVE	7,532.00
129-18-140	DONTE MINES	11610 HONEYDALE AVE	6,932.00
133-02-034	K-JAN PROPERTIES	3530 EAST 75TH ST	4,712.00
133-03-002	CHARLES BROOKS	3587-89 EAST 71ST ST	9,064.00
136-05-049	OZELL MITCHELL	10921 NELSON AVE	5,632.00
136-24-004	MYRA WILDER	10414-16 MILES AVE	7,532.00

Articles

Bier, Thomas, Empty buildings drain region's vitality, Cleveland Plain Dealer, April 2, 2006.

Murray, Theresa Dixon, Mortgage problems rise, but only here, Cleveland Plain Dealer, December 9, 2004.

Edwards, Robert T., Don't Be Flip About Flips.

Richardson, Katherine and Zuckerman, Gregory, Subprime Game's Reckoning Day, Wall Street Journal, February 27, 2007.

Gillispie, Mark, Bad loans, bad news for Cleveland, Cleveland Plain Dealer, September 17, 2006.

Perkins, Olivera, City to raze 200 decrepit buildings; Move follows report critical of inspectors, Cleveland Plain Dealer, October 11, 2006.

Gaylord, Beck, Lending shift splits Cleveland Banks' share of mortgages slip, especially on East Side, Cleveland Plain Dealer, November 10, 2006.

Perkins, Olivera, Big banks head list of urban deadbeats, Cleveland Plain Dealer, November 20, 2006.

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THE PLAIN DEALER

Bad loans, bad news for Cleveland

Top lender draws fire for foreclosures

Sunday, September 17, 2006

Mark Gillispie
Plain Dealer Reporter

One in five house-purchase loans made last year by Cleveland's top mortgage lender have already gone into foreclosure, a Plain Dealer examination of the company has found.

California-based Argent Mortgage Co. has dominated the Cleveland market since it began doing business here in 2003, selling more than $570 million in home loans.

But critics say the company's lax lending practices have allowed too many unqualified borrowers to get too many loans, helping to fuel the country's worst foreclosure rate.

Argent, a sister company of better-known Ameriquest Mortgage, is not alone in contributing to Cleveland and Cuyahoga County's vexing foreclosure problem. Its main competitors in the business of writing risky, high-interest mortgages -- called subprime loans -- have comparable or even slightly higher foreclosure rates for its Cleveland purchase loans last year.

But none of these competitors came close to the 1,258 purchase loans that Argent wrote in 2005.

Keith Ernst, senior policy counsel for the Center for Responsible Lending in Durham, N.C., said a recent study showed that 20 percent of subprime loans end up in foreclosure -- after five years.

"You've exceeded that in one [year]," Ernst said. "That tells you how stark a pattern is being evidenced in these foreclosures."

(Argent's overall foreclosure rate on its 2005 loans in Cleveland was about 13 percent. That includes refinance loans, which are less likely to default within the first year.)

Foreclosures are expensive, but Cleveland neighborhoods, experts say, suffer the most.

Many streets, especially on the East Side, have one or more boarded-up homes, byproducts of a subprime loan gone bad.

These eyesores often become magnets for crime while robbing surrounding owners by driving down the value of their homes.

More than 70 percent of the 7,300 loans Argent wrote in Cleveland from 2003 through 2005 were on the East Side.

Tom Bier of Cleveland State University's Levin College of Urban Affairs said subprime lending and foreclosures contribute to the loss of population in Cleveland and Cuyahoga County.

"There's a ripple effect," Bier said. "It comes down to, people with more money don't want to live around that, and they'll go somewhere else."

Argent already has been threatened with banishment from one state, and Cuyahoga County Treasurer James Rokakis contends that Argent officials should be held accountable for its lending practices here.

"They're a bad company that has done some very bad things to the city of Cleveland," he said.

Argent spokesman Chris Orlando said "We don't believe that Mr. Rokakis' portrayal accurately reflects our efforts in Cleveland.

We're on the ground in Cleveland working every day with local community groups . . . to address the economic challenges in this city," he said.

But two Greater Cleveland loan officers who work for independent brokers and asked not to be identified said Argent repreps have suggested how to doctor loan documents so that mortgages are approved by company underwriters.

And one loan officer said he knew of an Argent underwriter who removed a document from a loan file to save a deal.

Orlando said the company would fire any employee caught helping or promoting mortgage fraud.

Subprime lenders specialize in selling loans to people with bruised credit and those who cannot or do not want to fully document their income.

These loans are risk-based.

The higher a borrower's risk of default or foreclosure, the higher the rate charged for a loan.

Subprime lending has been credited with making mortgages available to millions of Americans who did not qualify for prime-rate loans.

One study, however, estimates that up to 20 percent of borrowers who received subprime loans had credit scores for lower-interest conventional mortgages.

Banks and savings and loans that sell conventional home loans have stringent requirements for borrowers and charge virtually the same fees and interest rates.

There are far fewer rules in the subprime world. A credit score that would have once prevented a person from getting an installment loan to buy a refrigerator might qualify them today to buy several rental properties.

Loan officers for conventional lenders usually deal directly with prospective borrowers and are paid to protect a lender's interests. Most subprime loans are sold through independent mortgage brokers who are paid only when a loan is completed.

Mark Seifert, director of the housing advocacy group East Side Organizing Project, said irresponsible brokers are largely to blame for getting people into loans they cannot afford. Ohio, he said, is not doing enough to police the industry.

"These brokers are a dime a dozen," Seifert said. "You can practically open for business tomorrow. All you have to do is pay a small fee and prove you're not Charles Manson."

His group has begun to work with Argent on a non-binding agreement to tighten the company's underwriting practices such as income verification of prospective borrowers, Seifert said.

Argent also is working with the group on sponsoring a debt- and credit-literacy program.

Argent did not begin selling loans in Ohio until 2003. Before that, federally insured institutions such as Charter One Bank and Third Federal Savings & Loan were Cleveland's market leaders for home loans.

Argent soared past them in its first year and by 2004 captured 22 percent of the city's mortgage business, writing more than twice the number of loans as Charter One and Third Federal combined. Argent's share of the market dropped to 16 percent last year, but it still sold three times the number of loans as its nearest competitor.

Part of the company's success was likely the result of a predatory lending law approved by Cleveland City

BankUnited shares, which fell 83 cents, or 3.2%, to $25.06 in 4 p.m. composite trading yesterday on the Nasdaq Stock Market, are trading at almost nine times its expected per-share earnings over the next year.

Under accounting rules, BankUnited counts the unpaid interest payments as revenue, however. So if a borrower pays the contractual minimum of $500 a month, rather than the $1,000 interest-only amount, the bank can count the remaining $500 as revenue. That is because it is assumed it will be repaid down the road. This revenue is a rising slice of its earnings, according to an analysis by Keefe, Bruyette & Woods.

Humberto Lopez, BankUnited's chief financial officer, says the bank focuses on borrowers with high credit scores who generally put down at least 20% of the purchase price on a home. "Our borrowers have the financial wherewithal, and they've earned the right to have options of payments," Mr. Lopez says. "We haven't seen any weakness in their ability to pay."

Write to Karen Richardson at karen.richardson@wsj.com[2] and Gregory Zuckerman at gregory.zuckerman@wsj.com[3]

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(2) mailto:karen.richardson@wsj.com
(3) mailto:gregory.zuckerman@wsj.com

P.D. 4/2/06

Because abandonment and deterioration shift as investment shifts, neighborhoods that were stable 20 or 30 years ago are declining today. It's not confined to Cleveland.

Empty buildings drain region's vitality

THOMAS BIER

We have many more buildings in Greater Cleveland than users to occupy them. That means that some buildings *must* be abandoned. Call it a real estate "surplus."

We've had major surpluses, particularly in housing, since the 1960s. They are the result of:

- our free-enterprise system, which builds as much as can be sold;
- a plentiful supply of open land; and
- sluggish economic growth.

In spite of little growth, construction has been steady.

Other low-growth regions, such as Pittsburgh, St. Louis and Dayton, are in the same boat. But regions with *strong* growth, such as Phoenix and San Francisco, do not have surpluses.

Strong growth attracts people to jobs and creates so much demand for new and old buildings that little or no surplus occurs. Can that happen here? Anything is possible, but on the scale of a Phoenix? — not likely, for a long time.

Our problem is twofold: the amount of real estate is so large compared with users that many old structures are superfluous, and most new construction is not located where buildings are being abandoned.

Construction enables people and businesses at all economic levels to "move up" — some to new buildings, most to used ones. Investments shift accordingly. At the bottom of the market, owners either can't afford maintenance or they avoid it. Buildings are abandoned.

The bottom of our regional market is mainly in the city of Cleveland. This year roughly 1,000 structures will be abandoned in the city because new home construction in the region will outstrip the region's growth in households. For every 100 homes built, 30 old homes will be abandoned. It happens every year.

Because abandonment and deterioration (the precursor of abandonment) shift as investment shifts, neighborhoods that were stable 20 or 30 years ago are declining today. It's not confined to Cleveland.

As suburban middle- and upper-income households gradually move out of Cuyahoga County to new or newer homes in adjacent counties, Cuyahoga's inner suburbs are increasingly occupied by Cleveland-leavers who have modest incomes, at best.

Signs of inner-suburban decline are multiplying, which gives more people who can afford to live farther out reason to do so.

One might think, "All Cleveland and those old suburbs have to do is improve their schools and tidy their neighborhoods and this would stop." No, it wouldn't — or I should say, if it's stopped in one place, the housing surplus will force it to start in another.

If Cleveland's schools and neighborhoods were to become so attractive that no one left the city, abandonment would explode in the inner-ring suburbs, particularly those with the lowest priced properties and the least effective governments. Inner suburbs would become the new urban calamity as 1,000 of their properties would be abandoned each year.

As long as large surpluses of real estate exist in the region, there will be spreading decline and abandonment in the older parts of the region.

Because of the size of the housing surplus, the most that can be achieved in the affected communities is to make some properties, streets and neighborhoods competitively attractive while other properties, streets and neighborhoods are sinking. Islands of renewal can exist as decay spreads.

SEE BIER | H3

4,000
Condemned properties in Cleveland.

23,700
Housing units lost in the city between 1980 and 2000, as its vacancy rate climbed from 8.8 percent to 11.7 percent.

22 percent
Downtown office vacancy rate in 2005.

6 million square feet
Unused space in convenience and shopping service in the region.

FROM H1

Empty buildings drain vitality

As daunting as the situation may seem, it can be addressed. The challenge is to upgrade salvageable structures, remove ones that are weaklings in the marketplace, and rebuild (or create mini-parks). And do it with quality that is attractive to people with good incomes. The problem is how to finance that.

Redevelopment typically involves extra costs that "greenfield" projects do not have, such as demolition and land assembly. In hot markets, such as San Francisco for example, buyers will pay the costs; they won't in a cool market like ours. Public funds are needed to fill the gap, but the capacity of the affected communities to produce those funds is very limited.

As a region we should operate on the principle that 'new assists the old.'

The answer is in the region. As a region we should operate on the principle that "new assists the old." We should allocate a portion of the property taxes generated by construction in the new and newer communities to a redevelopment fund for the older ones.

Cuyahoga County officials are creating a fund for commercial and industrial properties within the county, but that will not alter the impacts of the housing surplus.

Establishing a cooperative, regional approach to building the region's future runs counter to home-rule thinking. ("I live in Westlake; Cleveland's problems have nothing to do with me." "I live in Brunswick. I left Parma to get away from decay.")

Home-rule government has many benefits, but it has cultivated the attitude that the only civic obligation one has is to the jurisdiction in which one lives. Free-enterprise and low-growth create the surplus; then home rule "dictates" that the communities that are stuck with the consequences have sole responsibility for them: "It's your mess, you fix it."

Our state government takes the same position, as it expands highways to boost exurban development.

Our old communities — aided by the newer parts of the region — must renew themselves. More people and employers will be attracted by the results, and the region will have a much firmer basis for optimism about its future.

Bier is on the staff of the Maxine Good-

P.D Dec. 9, 2004

Mortgage problems rise, but only here

TERESA DIXON MURRAY
Plain Dealer Reporter

Greater Cleveland is the only U.S. metropolitan area where late mortgage payments and foreclosures have increased in the last year, according to a new report from mortgage giant Freddie Mac.

A separate report from the Mortgage Bankers Association of America shows that Ohio has the highest percentage of homeowners either in foreclosure or with payments that are 90 days or more behind.

One of every 21 Ohio homeowners fell into that 90-days-plus category as of June, the industry association said. One of every 11 in Ohio is 30 days or more behind on mortgage payments. The Mortgage Bankers Association's latest report, due today, will show that Ohio remains in serious trouble.

The Freddie Mac report shows the Cleveland area's foreclosures and 90-day-plus delinquencies increased by a combined 4.65 percent since the end of last year.

Every other large metro area nationwide saw foreclosures and serious delinquencies either decrease or stay the same, said Freddie Mac spokesman Brad German. Freddie Mac is one of the nation's largest mortgage underwriters; it typically buys loans from other lenders.

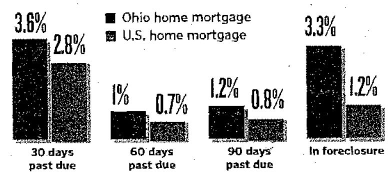
Cleveland's showing was grim even compared with its neighbors throughout the Midwest, the region hardest hit by the sour economy the last few years.

see MORTGAGE | A23

One in 11 Ohio homeowners behind on mortgages

An Ohio home loan is nearly three times as likely to be in foreclosure compared with the national average.

Status of troubled home loans



SOURCE: Mortgage Bankers Association of America

THE PLAIN DEALER

If you fall behind

MORTGAGE

FROM A1

Foreclosure rate is up in Ohio

For example, the foreclosure/delinquency rate dropped by 5.58 percent in Columbus, by 15.51 percent in Cincinnati, by 15.75 in Detroit and by 12.34 percent in Chicago.

Freddie Mac's study coincides with its recommendation that lenders be proactive in managing financial distress. Consumers who face their problems and are upfront with their lenders are more likely to save their homes, German said.

Freddie Mac had no explanation for the Cleveland area's woes except for job losses. Ohio has lost more jobs — 237,000 on a net basis since early 2001 — than any other state.

Doug Duncan, chief economist for the Mortgage Bankers Association, said foreclosure and delinquency rates are a lagging indicator because people who lose their jobs or hit a financial crisis don't go into delinquency or foreclosure until some months afterward.

But Duncan said it's disturbing that Ohio's rate has continued to rise while the national rate has fallen.

Ohio became No. 1 for the first time in the second quarter and it's expected to stay there for a while, he said.

"What has happened is this is the second wave of manufacturing job loss," said Duncan, who in October studied the Midwest's problems in depth. The common threads for the Midwest states he analyzed were high levels of home ownership, high dependence on manufacturing jobs and significant job losses in recent years.

"The efficiency gains in manufacturing are eliminating the need for certain jobs," he said. "The unfortunate thing is those jobs are not likely to come back."

The foreclosure/delinquency rates shocked some area experts.

"It's doesn't surprise me that we're worse than other metropolitan areas, but it does surprise me that rates here are actually rising," said Richard DeKaser, chief economist at National City Corp. in Cleveland.

Low interest rates and rising home values (albeit modest 3 percent to 4 percent a year increases) have helped some homeowners stave off foreclosure, he said, because they can refinance to cut payments or pay off other, higher-rate debts.

Carrie Bender, director of research and investigation for the nonprofit Housing Research & Advocacy Center in Cleveland, said the foreclosure/delinquency findings if they covered only the Cleveland city limits. Because Cleveland recently was named the U.S. city with the highest poverty rate, being No. 1 in other ominous categories is expected, Bender said.

But the trend also reflects the suburbs. "This might be the result of overborrowing," she said. Consumers with financial problems or lofty lifestyles and spending habits sometimes bite off new homes or refinance loans that they just can't afford.

Another cause, she said, could be this region's rash of predatory loans — high-cost mortgages which people are tricked into getting.

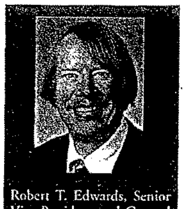
Whatever the reasons, Duncan said Ohio is so far ahead of the rest of the country in home loan trouble that it's likely the keep the top spot for a while.

Ohio's foreclosure rate is three times the national average, and its combined foreclosure/delinquency rate is 65 percent higher than the U.S. average.

"It will play out," he said, "for a long time."

Don't Be Flip About Flips

By Robert T. Edwards



Robert T. Edwards, Senior Vice President and General Counsel, is responsible for United General's underwriting and claims processes.

Historically, Flips were a legitimate practice of skilled real estate professionals based on the principle of buy low and sell high. However, in some cases, this basic type of Flip transaction has taken on new dimensions and been transformed into a scam.

Historically, Flips were a legitimate practice of skilled real estate professionals based on the principle of *buy low and sell high.* An astute real estate practitioner may find a property which can be purchased at a reasonable price and then immediately re-sold to a buyer at a higher price. This investor buys "low" and then immediately sells "high" and smiles all the way to the bank. The resulting transactions are considered legitimate and acceptable. However, in some cases, this basic type of Flip transaction has taken on new dimensions by the addition of a liberal dose of creative financing, a touch of larceny, an allotment of fraudulent or criminal intent, a dollop of deceit and misrepresentation, a smidge of secrecy and a measure of greed. Voila! We have transformed a Flip into a scam.

Watch Out For The "Good Customer" Routine

The folks who perpetrate these charades may identify themselves as miracle-working real estate brokers and/or mortgage brokers. For title or settlement agents, they may be cleverly disguised as one of your best customers or a customer who promises to deliver a high volume of business in which you are lucky enougb to participate. For our purposes, we will identify them as the Middleman (This is a gender–neutral article. This identification could just as easily be Middlewoman or Middleperson, but the generic "man" is shorter and easier to write.) The Middleman can't pull this off without some assistance. He will require some assistance from other players such as an appraiser, lender, "straw" borrower and/or even the title agent.

This Show Has A Great Cast!

This game has many variations but here are its usual ingredients.

The players are the following:

A Seller who we'll call Sam Seller. Usually the seller owns the Flip property which is in foreclosure or is otherwise distressed. It is possible that the property is not subject to a foreclosure but the Middleman somehow dupes the seller by misrepresenting the market value of the property, perhaps based on a phony appraisal.

A Buyer/Borrower—let's call him Bud Buyer. This is the person who will eventually buy the property from the Middleman. Sometimes this person may be involved in the scam and is just a straw person who gets a piece of the action for submitting a false loan application with bogus supporting documentation including credit report, employment verification, etc. Or, this person may be a legitimate buyer of property—although its value may bave been misrepresented.

The Appraiser. Since this game involves the necessity for disparate purchase and sale prices, a cooperative (defined: devious) appraiser is an essential player. Either the seller must be convinced of the depressed market value of his property and/or the buyer—or his lender—must be advised of the sufficiency of value to support the new loan and purchase price. These appraisals may be bold-face frauds or they may be supported by improper, inapplicable or even non-existent comparable properties. Creative (translated: fraudulent) appraisals are frequently the backbone of Flip transactions.

A new lender. Though not absolutely required to complete this scam, frequently, a new lender (making a loan for purchase money to the buyer/borrower) joins the game. This new lender comes into play as the investor who purchases an assignment of the new loan which is sometimes originated by the mortgage broker who is also the Middleman.

The friendly local title agent. Here we have another essential player in this game. Seldom does this player have any part in the scam. This player just wants to accommodate a customer and do some business.

And finally, we have the star of our show, the Middleman. We will continue to use the term "Middleman" since he is the quarterback of our scheme as the purchaser in the first part of the flip transaction and the seller in the second part.

Rush-rush, back-to-back closings for the two parts of the transaction are required and silence is absolutely mandatory.

He also stands to make the big bucks from this deal. He is the villain in this movie.

Let The Games Begin

Conceptually, we have a basically simple, combined transaction. Sam Seller sells property to Middleman who then immediately sells the same property to Bud Buyer, making a profit on the quick turnaround. If the game ended at that point, there would be no problem and this article would not need to be written. The extra-curricular activities which accompany the basic transaction are what cause heartburn for title/settlement agents and give "Flip" Wilson a bad name. Here are some of the "tricks":

Sam Seller may have been conned by Middleman into selling his property by a misrepresentation of the property value or other false promises, guarantees and effects. The misrepresentation may have been supported by a less-than-accurate or even fraudulent appraisal. Of course, Sam is a big kid and is responsible for his actions, but fraud is fraud and Sam will probably sue everyone in sight to overcome his lack of discretion. After all, lawsuits are our national pastime and we can shed a lot of guilt if we can get a court to make somebody else responsible for our mistakes.

To make this deal work, Middleman will need the cooperation of the title/settlement agent. Rush-rush, back-to-back closings for the two parts of the transaction are required and silence is absolutely mandatory. Sam must be kept in the dark and not be told anything about the resale from Middleman to Bud Buyer.

The closings may need to be held in reverse order. The only money coming into this deal comes from Bud Buyer, the ultimate purchaser, or his lender and this part of the transaction must close in order for Middleman to have money to pay for the purchase from Sam Seller. Some slight-of-hand may be necessary on the part of the settlement agent to assure Bud Buyer that he owns the property when, in truth, title hasn't yet been transferred to Middleman.

Bud Buyer will likely need a mortgage loan to purchase the property. Middleman often acts as a mortgage broker to arrange this deal. Middleman will need to deal with a hard money (high fee, high interest) lender to whom he submits (maybe with Bud's assistance) bogus employment and income records, credit report, loan application and personal references. Middleman knows that Bud will never make a payment on this loan but the lure of high front-end loan fees and commissions causes this minor detail to be lost in the process. This is fraud for fun and profit!

The loan must be supported by an acceptable appraisal and once again, Middleman seeks the assistance of his cooperative appraiser. The same property which appraised at one level for Sam Seller now appraises for about 50% more for Bud Buyer's loan.

The appraisal and property valuation process may also need some cooperation from the title agent. A mortgage broker can play games with an appraisal by qualifying a borrower for a refinance rather than a purchase. The sale price of a property when supported by an equal appraisal will establish the maximum loan amount based on the loan-to-value ratio. The lender will loan only a set percentage of the value—maybe 80% or 90%. But for a refinance transaction, the appraised value (after being inflated by the cooperative appraiser) will support a higher loan amount based on the same percentage of value. To accomplish this the title commitment must show the borrower to be in title to the property. Middleman says to his cooperative title agent, "Here is a deed which I (Middleman) have signed conveying the property to Bud Buyer (the Borrower). Hold this deed in escrow until the transaction closes. It's a good deed as between Middleman and Buyer and based on this deed, you, title agent, can show Bud Buyer to be vested in title. Just overlook the fact that Sam Seller has not yet conveyed the property to me; that will happen in due course. If it doesn't happen, the loan can't be made and the escrowed deed can be thrown away and nobody knows or cares."

This trick will enable Middleman to get an increased loan amount for Bud Buyer who now will not need to bring a down payment to closing.

Middleman may ask the title agent to do some other "favors". The lender may want to see a settlement statement which shows a down payment brought to closing by Bud Buyer although this didn't really happen. The first "favor" will be to prepare the settlement statement to show the borrower brought cash to closing. The next step may be to actually use closing funds to obtain a bank's cashier's check to deposit back into the closing account suggesting the source of the borrowers funds. Middleman's last requests of the title agent will usually be to waive the closing fee and reduce the title insurance premium.

The title agent will also need to ignore the provision which appears in closing instructions of most lenders, which state, essentially, "Do not close this loan without lender's written approval if more than one title transfer takes place or if title ownership has changed within the previous six months."

This Is A Team Sport

The way this game is played makes it clear that Flips are a team sport. Not all the players have the fun and only a few get the profit. Here, our example netted Middleman a significant cash profit on the sale of the property plus outrageous loan brokerage fees and whatever other amounts he was able to extort out of the other players. Appraiser received fees for two appraisals, neither of which is reliable. Bud Buyer filled up on hors d'ouvres at the closing before he caught the next freight train out of town. Sam Seller got swindled out of his property, at least out of a fair price for his property. Title agent got a good education, at his own expense.

Fraud is frowned upon by polite society and it is disliked even more by its victims.

As mentioned above, fraud is frowned upon by polite society and it is disliked even more by its victims. The flip team disbands in a hurry after the show: Sam Seller reappears only as the plaintiff in a civil fraud case or, perhaps as the government's star witness in a criminal fraud trial; Bud Buyer never makes a payment on his loan and his last known address is the Salvation Army shelter in Pittsburgh; Appraiser must be in the witness protection program because there is no evidence that he ever existed—even his mother won't admit to any association; the Lender soon discovers that the loan to Buyer is grossly under-secured and begins collection efforts by suing everyone involved and in sight. Middleman was last seen boarding a tramp steamer sailing for an uncharted south seas island and guess who is left to pick up the pieces and greet the process servers—the good old title agent who was just trying to serve his customers and make a living. Title insurance underwriters have deep pockets and closing protection letters; they will also be invited to the post-closing celebration and reunion to be held at the nearest federal courthouse. ❖

THE WALL STREET JOURNAL. ONLINE

February 27, 2007

HEARD ON THE STREET

Subprime Game's Reckoning Day

Risky Lending Fallout Threatens to Spread; Uncertain ARM Strength

By KAREN RICHARDSON and GREGORY ZUCKERMAN
February 27, 2007; Page C1

The worst may be yet to come for mortgage lenders. And that could add to investor nervousness.

Shares of companies that specialize in lending to riskier borrowers or offer unconventional loans have tumbled because of concerns over how rapidly these mortgages are going sour.

If these so-called subprime borrowers continue to have problems paying their debts, the lenders that target them likely will have to boost how much money they set aside for bad loans, cutting into their bottom lines. That could mean even lower stock prices.

There also is a concern that if the real-estate market remains cool, some borrowers with better credit histories might also begin struggling to make payments on certain popular, but unorthodox, mortgages. These types of loans allow borrowers to skip monthly payments, carry low short-term teaser rates or don't require detailed financial documentation. If that happens, companies such as **BankUnited Financial** Corp. and **Countrywide Financial** Corp. could suffer.

When a company keeps its reserve low, it makes its earnings look better because it continues to increase its assets from loans it originates and sells off. That holds down expenses.

But when a company beefs up those reserves and the change hits its earnings, that can impair its ability to borrow the short-term funds needed to write new mortgages. Lenders need to set aside reserves to cover any possible losses when borrowers fail to make payments.

Subprime-mortgage lenders generally sell most of their loans to investors, but many keep some loans as investments. These portfolios have grown as the number of new mortgages has risen.

New Century Financial Corp. and **NovaStar Financial** Inc. hold billions of dollars of loans for investment. While they have been increasing their loan-loss provisions, delinquencies have been coming faster than anticipated.

NovaStar's reserves were 1.05% of its \$2.1 billion in loans held for investment in the fourth quarter, up from 0.75% in the third quarter, but still ranked among the lowest in the industry, according to Zach Gast, an analyst at the Center for Financial Research and Analysis. New

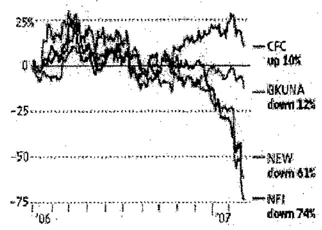
Century's ratio was 1.4% as of the third quarter. CFRA doesn't assign ratings on stocks.

52-WEEK PERFORMANCE

Mortgage Lenders

Company	Yesterday's close	Trailing P/E ratio
Countrywide (CFC)	$38.72	9
BankUnited (BKUNA)	$25.06	10
New Century (NEW)	$15.24	2
NovaStar (NFI)	$7.96	4

Source: WSJ Market Data Group



Scott Hartman, chief executive of NovaStar, says the lender made a "substantial increase to our loan-loss reserve" in the past quarter, and that about half of those loans "tend to be of higher quality and generally performing very well."

New Century, which has said it will restate earnings for the first three quarters of 2006 to correct accounting errors regarding repurchased loans, declined to comment.

Subprime-mortgage lenders are likely to start reporting significant shortfalls in their loss reserves "as soon as the next several quarters," predicts David Honold, an analyst at Turner Investment Partners, which manages $23 billion and has avoided shares of subprime lenders. That is partly because some of the lenders could place into their investment-loan portfolio some poorly performing mortgages that they have bought back under terms of their sale agreement. That would require them to boost loan-loss reserves.

Subprime lenders already have seen their shares tumble -- NovaStar is off 50% and New Century is down 12% in the past 10 days -- and they could fall further if their credit-lines dry up because of poor loan-loss provisioning. NovaStar shares are trading at about 12 times estimated per-share earnings, but that valuation is likely to change as analysts adjust their projections to account for the company's steep fourth-quarter loss and poor earnings outlook. New Century shares also are trading at about 12 times estimated earnings for 2007.

Some investors urge caution about lenders that cater to borrowers with better credit but focus on mortgages that may suffer if weakness in housing continues, such as option adjustable-rate mortgages, or ARMs. These loans give borrowers multiple payment options, including a minimum payment that might not cover all of the monthly interest cost. The remainder of the interest payment is tacked onto the outstanding balance, causing it to rise.

About 59% of BankUnited's approximately $11.5 billion loan portfolio is made up of these loans and the bank is making more of them as it expands.

Countrywide has been cutting back on pay-option mortgages, funding just $2.7 billion in January out of a total $37 billion in new mortgages. Still, it has "significant exposure" to these risky loans, CFRA's Mr. Gast says. Countrywide declined to comment.

READING THE ABX

- Does Subprime Index Amplify Risk?[1]

BankUnited acknowledges that borrowers are paying less of their monthly interest payments as interest rates have moved higher, and about 50% of the bank's loans have been made to residents of Florida, a weak real-estate market. And since BankUnited keeps about 70% of these loans in its own portfolio, if the borrowers run into problems it could hurt the company's earnings.

Council in 2002 that caused some mortgage lenders to stop doing business in Cleveland, opening a door for Argent.

Mortgage professionals say Argent aggressively marketed to brokers. And Argent was one of the few lenders in Greater Cleveland that would sell a mortgage for a property that had been sold within the previous 12 months, a rule instituted by some companies to prevent property "flipping."

(The company finally instituted a 12-month seasoning rule in April of this year.)

Argent rarely questions the validity of property appraisals or the source of down payments, one of the loan officers said.

Appraisals are a key component to getting mortgage loans approved — and in the commission of mortgage fraud. Appraisers sometimes stretch the value of a property so brokers can manipulate how much a company will lend.

And recent Plain Dealer investigations of mortgage-fraud schemes found instances where Argent received copies of bank checks that were to represent down-payment amounts. The buyers in these instances said they never paid a dime when they bought their properties.

Subprime loans have become an easy way to purchase rental properties. Argent wrote more purchase loans for rental properties than for owner-occupied homes in 2003.

More than 200 people used Argent loans to buy two or more properties in Cleveland last year.

Sixty-six of those buyers already have one or more properties in foreclosure.

Argent's high foreclosure rate in 2005 was in a year when the company tightened its underwriting standards. Argent approved one loan for each loan it rejected last year, compared with 11.4 approvals for each rejection in 2004.

The foreclosure rates for Argent and other lenders in 2004 could not be determined. Cuyahoga County Common Pleas Court only started in November including on its Web site the information needed to accurately search for foreclosures.

Complaints in Georgia prompted the state banking department to issue a cease-and-desist order against Argent in September 2005.

The company subsequently promised to more closely monitor and screen mortgage brokers, to train Argent employees on detecting mortgage fraud, to implement "common sense underwriting" procedures and to strengthen and increase internal audits of loan files.

Failure to comply could lead to the company being banned from doing business in Georgia, the order said. Argent's Orlando said the company continues to operate in Georgia.

City to raze 220 decrepit buildings Move follows report critical of inspectors
[Final Edition]

The Plain Dealer - Cleveland, Ohio
Author: Olivera Perkins, Plain Dealer Reporter
Date: Oct 11, 2006
Section: Metro
Text Word Count: 406

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Distribution zones: All

Cleveland's chief of building and housing agreed with a consultant's report that the department is in shambles and told City Council on Tuesday that the city would demolish 220 of the city's most decrepit buildings as one of its first steps in rehabilitating the department.

The demolition targets are dilapidated vacant structures, but many have never been cited by housing inspectors, often because inspectors hesitated to do the necessary, complicated paperwork, said director Edward Rybka.

The city will use most of its $1.9 million demolition budget to raze the buildings, including houses and commercial structures, spread throughout the city. The budget also pays for boarding up buildings. Last year, the city demolished 195 buildings.

Rybka told council about Mayor Frank Jackson's demolition plans at a hearing on a blistering report by consultant LeanFirm, which found that Cleveland has no systematic approach to code enforcement.

The report describes workers who are not held accountable for their performance, choosing not to work without fear of discipline. The report says 28,000 of the violation notices written between 2002 and June 2005 remain unresolved more than 60 percent of the total.

Rybka and consultant Mark Frater said the percentage is probably lower, but records are kept so haphazardly that no one knows for sure.

The report covers years when Jane Campbell was mayor, before Rybka became director of the department.

"These issues have been inherited over decades," Frater said.

Rybka said inspectors used uniform standards to come up with a list of buildings to demolish. In past years, each inspector used separate criteria for determining which buildings would be razed. Rybka said the decisions often were based on City Council complaints.

Councilman Roosevelt Coats, who represents South Collinwood, said the city should focus on demolishing commercial buildings and investor-owned property because the city has a better chance of recovering costs from owners.

Councilman Matthew Zone, who represents Detroit-Shoreway, said improving the department depends heavily on officials disciplining employees who do lousy work.

"For those who think they are entitled to a paycheck without performing, they need to find a new job," he said.

Rybka said the department had begun disciplining inspectors.

Councilman Jay Westbrook said the council will draft legislation giving inspectors authority to enter vacant, unsecured structures to write citations. The Law Department requires inspectors to get search warrants, which some council members complain can take months.

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Abstract (Document Summary)

Lending shift splits Cleveland Banks' share of mortgages slip, especially on East Side
[Final Edition]

The Plain Dealer - Cleveland, Ohio
Author: Becky Gaylord, Plain Dealer Reporter
Date: Nov 10, 2006
Section: Business
Text Word Count: 482

Document Text

Distribution zones: All

The region's biggest banks made only a small share of the home loans written in some city neighborhoods in recent years, data from the city of Cleveland show.

However, lenders that target borrowers who don't typically qualify for competitively priced loans were active in those neighborhoods where the big banks did little business, according to information from the federal government.

The Plain Dealer analyzed loan data from 1999 to 2004, the most recent years available from Cleveland, which collects the information under contracts struck with banks that hold city deposits. For months, Cleveland officials refused to release the public records and eventually disclosed the data only after the banks gave their approval.

Forged more than a decade ago, the contracts set goals for the banks, such as writing a specific number and value of home loans, offering a range of loan products to residents across city neighborhoods, operating branches throughout the city and supporting neighborhood development groups.

Former Mayor Michael R. White sought the first Community Reinvestment Agreement, considered pioneering, when he objected on the grounds of lending discrimination to the merger that eventually formed KeyBank.

A resolution accompanying the agreement declared that fulfilling the plan "will help the city in its efforts to encourage fuller participation by other Cleveland financial institutions in the development and growth of the city and its neighborhoods." Key has exceeded its commitments since initially signing the pact, investing more than $1 billion, a spokesman says.

National City Bank, another of the nine banks that signed contracts with the city, expects to meet or exceed the terms of its most recent commitment, a spokeswoman said. That agreement calls for National City to invest $800 million through 2011.

The agreements "really got the lenders a lot more involved," said Tom Bier, a housing expert with Cleveland State University.

But over the years, economic conditions in the city have deteriorated. And mortgage companies, which often make higher-cost, sub-prime loans to borrowers with blemished credit, swarmed into the local market.

Since 2000, banks' share of the mortgage market in Cleveland has dropped by about 30 percent. Now more than half of the 20 largest lenders in Greater Cleveland that lend to residents with low and moderate incomes are mortgage companies.

City officials have admitted recently that Cleveland hasn't been closely monitoring the effectiveness of its Community Reinvestment Agreements. For instance, it didn't enforce legislation associated with the contracts that Cleveland is supposed to use to select which banks get city business.

Mortgage company loans are tracked within federal data. But national bank regulators don't oversee the mortgage companies, and they're not covered by the city's existing contracts, either.

Many of the loans they have made have led to foreclosure filings. Foreclosures are on track to set a record for 2006, based on information from the Cuyahoga County treasurer.

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THE PLAIN DEALER

Big banks head list of urban deadbeats

Bills for boardups, cleanups go unpaid

Monday, November 20, 2006

Olivera Perkins
Plain Dealer Reporter

Cleveland has for years billed property owners after boarding up their vacant houses, mowing their untended lawns and carting trash from their garbage-strewn lots.

And for years, the vast majority of the bills have been ignored. In 2005, for example, the city spent more than $2.6 million cutting grass and cleaning lots, but recovered only $750,000, or about 28 percent.

As of last month, landlords still owed the nation's poorest big city a combined $4 million for tending their property, an analysis of city records shows. That's more than twice this year's budget for demolishing and boarding up vacant buildings and nearly three times what the city spent in 2005 helping needy seniors repair their homes.

The worst offenders, by the city's reckoning, include some of the world's biggest names in banking - JPMorgan Chase, Deutsche Bank, Wells Fargo or subsidiaries of the financial institutions.

Others contributing to the problem include the Cleveland Housing Network and the U.S. Department of Housing and Urban Development, two organizations that are supposed to help the city fight neighborhood blight.

Cleveland has typically sought to recoup the money by filing liens on the properties that were tended by city workers. But that means the city doesn't get paid until the houses are sold. So this year, the city has hired a lawyer to collect on the oldest bills, some of which date back years.

"They have the ability to pay, so they should pay," said Finance Director Sharon Dumas. "We need to recover our costs, and they need to become good civic citizens particularly because these abandoned homes are a quality of life issue for the neighborhoods."

Most of the financial institutions dispute the city's claims. They argue that Cleveland tries to make them pay for properties they no longer own or have never owned.

But the Cuyahoga County auditor's office reported few problems placing the liens, an indication there is little confusion about who owns these properties. Dumas said the city worked closely with the county, verifying owners before filing the liens.

In past years, City Council members and others complained that the city wasn't meticulous about finding property owners and frequently missed the September deadline for filing liens. By the time the liens were filed the following year, the property had been sold.

The city's high foreclosure rate is a major reason that the institutions that grant or insure mortgages owe the most, city officials said. During the foreclosure process, ownership often isn't clear, meaning the city has to dig through county records to find the actual owner of a structure or lot.

But many of the banks and mortgage companies contend that the city still does a sloppy job in finding the real owners. They complain that Cleveland often labels them as the owners, when they are only trustees.

"A corporate trustee for mortgage-backed securities where there is a pool of investors only serves an administrative role, but has no ownership stake," said Kevin Heine, a spokesman for the Bank of New York.

Heine said the bank owns none of the properties that the city says it does, including 11 structures that the city boarded up. He said the bank once owned one, but sold it. It's a trustee for four others, but the companies that service those loans are responsible for resolving the issue with the city, he said.

A spokesman for Deutsche Bank, which the city has billed for 22 properties, said he would look into whether any of the bank's subsidiaries owned the properties.

HUD denied owning any of the 12 properties for which it was billed. A spokesman said HUD used to own two and had insured mortgages on three others that were later paid off by their owners.

The city said it had boarded or cut grass at 19 Wells Fargo properties, but a spokeswoman said the company had owned only two, but sold them.

Several companies said they are willing to work with the city.

Cleveland Housing Network head Rob Curry reported by e-mail that the nonprofit had not received bills for all of the properties. He said the agency either paid or appealed the bills it received.

"CHN is a good citizen," Curry wrote. "We take our mission seriously and strive to pay our bills, including and especially those from the city of Cleveland."

Fannie Mae, a government-chartered buyer and guarantor of home mortgages, is committed to paying and is working with the city to see how much it owes, spokesman Alfred King said.

JPMorganChase - which owns Bank One - denied owning most of the properties for which it was billed. Spokeswoman Mary Kay Bean said the bank did serve as a trustee for several of the properties. The bank wants to resolve "concerns about property the bank has repossessed," she said.

Councilman Robert White said he believes the city lists are accurate. Several of the homes are clustered in his Union-Miles ward, causing blight and despair among the residents.

"They need to step up to the plate and be truthful about what they own, so that they can become a team with the city in solving this issue," he said.

Housing Court Judge Raymond Pianka said he is checking the city's list of unpaid bills against owners with criminal cases before the court, making sure their cases can't move forward until they pay their bills. He said he was looking at doing something similar for landlords filing evictions.

Councilman Jay Westbrook, who has complained in the past about the city's lax collection methods, said he is optimistic about the changes.

"It is about time the city is making the people who own the assets take responsibility," he said.

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The Judges of the United States District Court for the Northern District of Ohio
Welcome
our
Congressional
Guests

MAY 21, 2007

The New York Times
nytimes.com

May 20, 2007

Citing Terror Threat, Judges Criticize Plans for Ohio Garage

By CHRISTOPHER MAAG

AKRON, Ohio, May 17 — A proposal by the city to build a parking garage within one foot of the federal courthouse in this city's downtown has provoked a strong and uncommonly public reaction from some judges, who say it would allow potential terrorists to get dangerously close to their courtrooms.

The chief judge of the Federal District Court here, James G. Carr, and the chief judge of the District Bankruptcy Court, Randolph Baxter, warned in a letter to Mayor Donald L. Plusquellic that unless the city changed course, they would move their offices and courtrooms elsewhere.

"Federal courthouses, as the tragedy at Oklahoma City makes clear, are potentially a prime target for attack," the judges wrote in the letter. "In sum: We cannot stress strongly enough that the project, as presently envisioned, presents a serious, severe and imminent danger to the more than 300 federal judges, officials, employees of the court and other federal agencies who work in the building."

The disagreement over the parking garage reflects a broader unease among members of the federal judiciary after a number of violent events at courthouses and other federal buildings around the country. In 1995, 168 people died in the bombing that destroyed the Alfred P. Murrah Federal Building in Oklahoma City; family members of a federal judge were murdered in Chicago two years ago; and a sniper wounded a family court judge last June in Reno, Nev.

"I think judges have every reason to be concerned," said the Chicago judge, Joan Humphrey Lefkow, whose husband and mother were killed by an electrician angered by her decision to dismiss a malpractice suit. "We are particularly vulnerable public officials."

The south side of the John F. Seiberling Federal Building in Akron faces a city-owned parking lot. Nearby employers, including FirstEnergy, continue to expand, causing a parking shortage downtown, said Dave Lieberth, Akron's deputy mayor.

City officials originally hoped to replace the lot with a 300-car parking garage. The proposal more than tripled in size, to 1,000 cars, after Signet Enterprises, a real estate development company, decided to build its new corporate headquarters in an office building atop the garage.

As the proposed garage grew, its planned location mover closer and closer to the south wall of the court building. The courthouse, built in 1975, presents an especially challenging security situation because its outside walls are glass. The north side of the building is within a few feet of West Market Street, a busy downtown thoroughfare.

In the years after the Oklahoma City bombing, the General Services Administration, which owns the Akron building and leases it to the judiciary, installed concrete barriers along the north side in an effort to prevent a deadly car bomb.

.. Lieberth said the building plans were not final and would be changed to ensure the courthouse's .curity.

The conflict comes at a time when many federal judges are feeling besieged, Mr. Sellers said. "I've worked here almost 20 years," he said, "and yes, I can say that the cumulative effect of all these events is to leave judges wondering where and when are they ever going to be totally safe."

Most judges took advantage of money approved by Congress in 2005 to install security systems in their homes, Judge Lefkow said.

A federal judge here, John Adams, said that after the murder of Judge Lefkow's family members, he took a weapons training class and received a permit to carry a concealed gun.

In April, the Senate passed the Court Security and Improvement Act, which would allow judges to redact personal information like their home address from financial disclosure statements and would increase criminal penalties against people who use judges' personal data to make threats. The bill also would increase financing for the United States Marshals Service, which protects federal judges, by $20 million annually. Similar legislation is being considered by the House Judiciary Committee.

AGENDA

Monday, May 21, 2007

Congressional Guests

A. Introductions

B. Foreclosure Caseload

C. Appreciation for support for:

- FY07 Appropriation
- Financial Disclosure Statement Redaction Legislation
- Residential Security

D. FY 08 Judiciary Appropriation

E. Judgeship Legislation and Judicial Vacancies

- Renewal of Northern District of Ohio Temporary Judgeship
- S. 1327 - A bill to create and extend certain temporary district court judgeships

F. Court Security

- Akron Courthouse
- The Court Security Improvement Act of 2007

G. New Toledo Court House

H. Pro Bono Civil Case Reimbursement Program

- In early 2007, the Court established a Pro Bono Civil Case Protocol through which counsel may be assigned, at the discretion of the judicial officer, to represent a pro se litigant in a civil case. The Court will reimburse assigned counsel for certain expenses incurred in providing representation up to $1,500.

I. Pretrial Services and Probation

- Project Penalty Awareness
- National Defendant/Offender Workforce Development Program

J. Federal Courts Improvement Legislation

K. Northern District of Ohio Annual Report

~ District Judges ~

Chief Judge James G. Carr *
Solomon Oliver, Jr. *
Kathleen M. O'Malley *
Peter C. Economus *
Donald C. Nugent *
Patricia A. Gaughan
James S. Gwin *
Dan A. Polster *
John R. Adams
Christopher A. Boyko *
Jack Zouhary
Sara Lioi

~ Senior District Judges ~

Ann Aldrich
David D. Dowd, Jr.
David A. Katz
Lesley Wells *

~ Magistrate Judges ~

David S. Perelman
James S. Gallas
Patricia A. Hemann
Vernelis K. Armstrong
Nancy A. Vecchiarelli
George J. Limbert
William H. Baughman, Jr.
Kenneth S. McHargh

~ Bankruptcy Judges ~

Chief Judge Randolph Baxter
Richard L. Speer
Marilyn Shea-Stonum
Pat E. Morgenstern-Clarren
Russ Kendig
Mary Ann Whipple
Arthur I. Harris *
Kay Woods

* *In attendance*

United States District Court
Northern District of Ohio

Foreclosure Case Filings
May 21, 2007

During the past three years, the Northern District of Ohio has witnessed an unprecedented increase in foreclosure case filings. Historically, most foreclosure cases have been filed in state courts. However, due to a substantial increase in foreclosures both nationally and locally, as well as a significant backlog of foreclosure cases that have developed in local state courts, parties that can pursue their foreclosure actions in federal courts under diversity jurisdiction have begun to do so, which has resulted in a large increase in workload for this Court. Lenders can bring foreclosure cases in federal courts under diversity jurisdiction when they are from separate states than those who defaulted on the loans. The shift from local lending to the predominance of national mortgage companies has thus increased the number of cases that can be brought in federal courts.

In past years, the Northern District of Ohio typically received fewer than a dozen new foreclosures cases per year. The upward trend in foreclosure filings is both unmistakable and dramatic. The Court had 11 foreclosure cases filed in 2001, six in 2002, eight in 2003, but then 34 in 2004 (with an increase beginning at year end), 220 in 2005, 383 in 2006 and 406 in less than the first five months of 2007.

Today's foreclosures impose significant costs not only on borrowers and lenders, but on the courts. While the impact on lenders, borrowers, and other entities that are direct parties to the mortgage transaction is well known, the costs that these mortgage failures impose on courts are not understood because third party costs are difficult to identify, and therefore often go undetected. In federal courts, the U.S. Marshals Service typically oversees foreclosure sales just as the local sheriff's office oversees the sales of property in foreclosure cases brought in state courts. In Northern Ohio, however, the U.S. Marshals Service did not possess the time, manpower or other resources to manage the increasing number of foreclosure sales. Instead, the Court has had to appoint a panel of master commissioners who arrange for the properties to be appraised by three certified appraisers, advertise and conduct the sales, collect the proceeds and report back to the Court. The Court Clerk's Office has to appoint a master commissioner to each case, train the master commissioners in their duties, collect a deposit from the plaintiff/lenders to cover the costs of the master commissioners and the appraisers, and distribute the funds to the appropriate individuals after the sales are complete. Managing funds requires the Court's finance department to open up a financial case file for each foreclosure, collect deposit funds and cut checks to as many as five entities per case including the master commissioner, three appraisers, and the purchaser or lender. With an expected increase of 150 new foreclosure cases per month, that means distributing 750 additional checks per month or 9,000 more per year. To put that in perspective, the Court previously cut and distributed about 1,200 checks per month or 14,400 per year for both its entire caseload and all administrative duties, which means the Court's workload has increased 62% in the financial area alone (aside from the judicial workload presented by these cases) without any increase in staffing or resources.

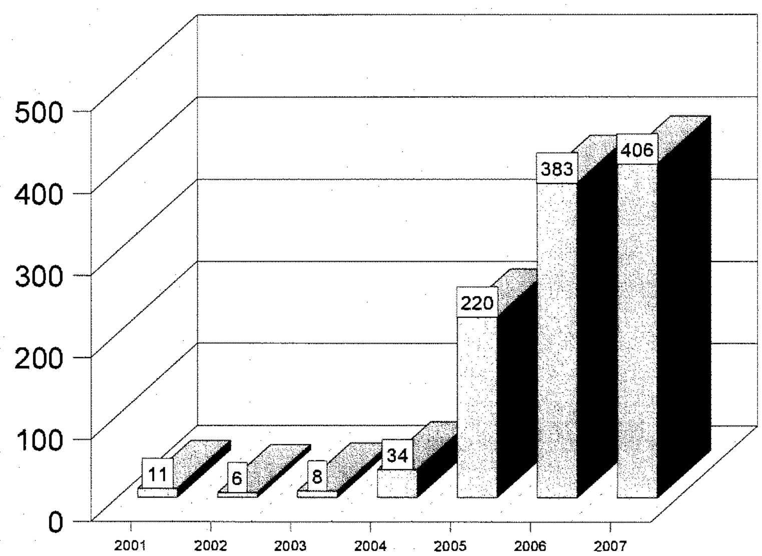
The Northern District of Ohio was one of the first federal courts to be impacted by the increase in foreclosure filings, but we now understand that diversity foreclosure actions are being brought in significant numbers in the Southern District of Ohio and federal actions may also be increasing in other districts. The impact and costs associated with the foreclosure crisis are shifting from the states to the federal government imposing a greater burden on the effective use of taxpayer dollars and highlighting the seriousness of the crisis.

Foreclosure Case Status Report
United States District Court
Northern District of Ohio
April 30, 2007

1. **2001 - 2007 Foreclosure Filings**

- Historically, foreclosure case filings have been relatively low over the past 10 years averaging less then 10 cases per year before 2004.
- In 2004, there were 34 cases filed.
- Filings increased dramatically in 2005 to 220 cases.
- In 2006, there were 383 cases filed.

Foreclosure Case Filings 2001 - 2007



FY 2007 Appropriations

- The Judiciary is very appreciative of the funding Congress provided in FY 2007. Although we were very concerned about the prospect of a hard freeze for the courts in FY 2007, Congress responded to those concerns and provided funding for the Judiciary sufficient to maintain current on-board staffing levels in the courts as well as to hire 200 new staff to address some of our immigration-related workload needs.

- We are aware that hundreds of Executive Branch programs were funded at or below FY 2006 levels, and we are very appreciative for the funding level we received. The Judiciary assures the Congress that these resources will be used wisely.

Redaction of Financial Disclosure Reports

1. **Update:** On March 21, 2007, the House of Representatives passed **H.R. 1130, the "Judicial Disclosure Responsibility Act,"** by a vote of 415-0. The bill was received in the Senate and referred to the Committee on Homeland Security and Governmental Affairs.

On April 19, 2007, the Senate passed **H.R. 1130, the "Judicial Disclosure Responsibility Act,"** clearing the measure for anticipated signing by the President.

Issue Description: H.R. 1130 would reinstate through December 31, 2009 the authority of the Judicial Conference to redact information from financial disclosure reports where the release of that information would endanger the filer. The bill also expands the authority to allow redaction where the release of the information could endanger a member of the filer's family. The language of the bill is identical to sections 102 and 103 of H.R. 660, the "Court Security Improvement Act of 2007" and the companion Senate bill, S. 378. (See "Court Security" for additional information on those bills.)

Legislative History: H.R. 1130, the "Judicial Disclosure Responsibility Act," was introduced February 16, 2007 and referred to the Committee on the Judiciary.

On February 28, 2007, the House Judiciary Committee voted unanimously to report the bill favorably. During the mark-up session, the Committee rejected an amendment offered by Representative F. James Sensenbrenner (R-WI) that would have made the redaction authority permanent, rather than extending it to December 31, 2009. Both Republican and Democratic members indicated that they preferred a permanent authority. However, because there was an urgent need to reinstate the redaction authority which had expired at the end of 2005 and it was anticipated the Senate would reject a grant of permanent authority, they preferred to enact the temporary authority and seek to make it permanent in legislation to be taken up later.

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H.R.1130
Title: To amend the Ethics in Government Act of 1978 to extend the authority to withhold from public availability a financial disclosure report filed by an individual who is a judicial officer or judicial employee, to the extent necessary to protect the safety of that individual or a family member of that individual, and for other purposes.
Sponsor: Rep Conyers, John, Jr. [MI-14] (introduced 2/16/2007) Cosponsors (6)
Latest Major Action: Became Public Law No: 110-24 [GPO: Text, PDF]
House Reports: 110-59

Jump to: Summary, Major Actions, All Actions, Titles, Cosponsors, Committees, Related Bill Details, Amendments

SUMMARY AS OF:
5/3/2007--Public Law. (There are 4 other summaries)

(This measure has not been amended since it was introduced. The summary of that version is repeated here.)

Judicial Disclosure Responsibility Act - Amends the Ethics in Government Act of 1978 to: (1) restrict disclosure of personal information about family members of judges whose revelation might endanger them; and (2) extend through 2009 the authority of the Judicial Conference to redact certain personal information of judges from financial disclosure reports.

Specifies addition types of information the Administrative Council of the U.S. Courts must include in its annual report to certain congressional committees on redaction of judicial financial disclosure reports.

MAJOR ACTIONS: *l'à*

2/16/2007	Introduced in House
3/20/2007	Reported by the Committee on Judiciary. H. Rept. 110-59.
3/21/2007	Passed/agreed to in House: On motion to suspend the rules and pass the bill Agreed to by the Yeas and Nays: (2/3 required): 415 - 0 (Roll no. 177).
4/19/2007	Senate Committee on Homeland Security and Governmental Affairs discharged by Unanimous Consent.
4/19/2007	Passed/agreed to in Senate: Passed Senate without amendment by Unanimous Consent.
5/3/2007	Signed by President.
5/3/2007	Became Public Law No: 110-024 [Text, PDF]

ALL ACTIONS:

2/16/2007:
Referred to the House Committee on the Judiciary.
2/28/2007:
Committee Consideration and Mark-up Session Held.
2/28/2007:
Ordered to be Reported by Voice Vote.
3/20/2007 6:38pm:
Reported by the Committee on Judiciary. H. Rept. 110-59.
3/20/2007 6:38pm:
Placed on the Union Calendar, Calendar No. 30.
3/21/2007 5:32pm:
Ms. Sanchez, Linda T. moved to suspend the rules and pass the bill.
3/21/2007 5:33pm:
Considered under suspension of the rules. (consideration: CR H2787-2788)
3/21/2007 5:42pm:
At the conclusion of debate, the Yeas and Nays were demanded and ordered. Pursuant to the provisions of clause 8, rule XX, the Chair announced that further proceedings on the motion would be postponed.
3/21/2007 6:54pm:
Considered as unfinished business. (consideration: CR H2795-2796)
3/21/2007 7:03pm:
On motion to suspend the rules and pass the bill Agreed to by the Yeas and Nays: (2/3 required): 415 - 0 (Roll no. 177). (text: CR H2787)
3/21/2007 7:03pm:
Motion to reconsider laid on the table Agreed to without objection.
3/22/2007:
Received in the Senate and Read twice and referred to the Committee on Homeland Security and Governmental Affairs.
4/19/2007:
Senate Committee on Homeland Security and Governmental Affairs discharged by Unanimous Consent. (consideration: CR S4788)
4/19/2007:
Passed Senate without amendment by Unanimous Consent.
4/19/2007:
Cleared for White House.
4/20/2007:
Message on Senate action sent to the House.
4/24/2007:
Presented to President.
5/3/2007:
Signed by President.
5/3/2007:
Became Public Law No: 110-24.

TITLE(S): (*italics indicate a title for a portion of a bill*)

- SHORT TITLE(S) AS INTRODUCED:
  Judicial Disclosure Responsibility Act

- SHORT TITLE(S) AS REPORTED TO HOUSE:

Judicial Disclosure Responsibility Act

- SHORT TITLE(S) AS PASSED SENATE:
  Judicial Disclosure Responsibility Act

- SHORT TITLE(S) AS ENACTED:
  Judicial Disclosure Responsibility Act

- OFFICIAL TITLE AS INTRODUCED:
  To amend the Ethics in Government Act of 1978 to extend the authority to withhold from public availability a financial disclosure report filed by an individual who is a judicial officer or judicial employee, to the extent necessary to protect the safety of that individual or a family member of that individual, and for other purposes.

COSPONSORS(6), ALPHABETICAL [followed by Cosponsors withdrawn]: (Sort: by date)

Rep Cannon, Chris [UT-3] - 2/16/2007
Rep Forbes, J. Randy [VA-4] - 2/16/2007
Rep Goodlatte, Bob [VA-6] - 2/16/2007
Rep Sanchez, Linda T. [CA-39] - 2/16/2007
Rep Scott, Robert C. [VA-3] - 2/16/2007
Rep Smith, Lamar [TX-21] - 2/16/2007

COMMITTEE(S):

Committee/Subcommittee:	Activity:
House Judiciary	Referral, Markup, Reporting
Senate Homeland Security and Governmental Affairs	Referral, Discharged

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RELATED BILL DETAILS:

NONE

AMENDMENT(S):

NONE

Bill 5 of 5

Final version (Enrolled Bill) as passed by both Houses. There are 4 other versions of this bill.

GPO's PDF Display	Congressional Record References	Bill Summary & Status	*Printer Friendly Display* - 2,541 bytes.[Help]	XML Display [Help]

Judicial Disclosure Responsibility Act (Enrolled as Agreed to or Passed by Both House and Senate)

--H.R.1130--

H.R.1130

One Hundred Tenth Congress

of the

United States of America

Begun and held at the City of Washington on Thursday,

the fourth day of January, two thousand and seven

An Act

To amend the Ethics in Government Act of 1978 to extend the authority to withhold from public availability a financial disclosure report filed by an individual who is a judicial officer or judicial employee, to the extent necessary to protect the safety of that individual or a family member of that individual, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Judicial Disclosure Responsibility Act'.

SEC. 2. PROTECTION OF FAMILY MEMBERS.

Section 105(b)(3) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended--

(1) in subparagraph (A), by inserting `or a family member of that individual' after `that individual'; and

(2) in subparagraph (B)(i), by inserting `or a family member of that individual' after `the report'.

SEC. 3. FINANCIAL DISCLOSURE REPORTS.

(a) Extension of Authority- Section 105(b)(3) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking `2005' each place that term appears and inserting `2009'.

(b) Report Contents- Section 105(b)(3)(C) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended--

(1) in clause (ii), by striking `and' at the end;

(2) in clause (iii), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

`(iv) the nature or type of information redacted;

`(v) what steps or procedures are in place to ensure that sufficient information is available to litigants to determine if there is a conflict of interest;

`(vi) principles used to guide implementation of redaction authority; and

`(vii) any public complaints received relating to redaction.'.

Speaker of the House of Representatives.

Vice President of the United States and

President of the Senate.

FY 2008 Appropriations

1. **Update:** The fiscal year 2008 appropriations process officially began on February 5, 2007 with the transmittal of the President's budget to Congress. On March 21, 2007, Judge Julia Gibbons (6th Cir.) Chair of the Judicial Conference's Budget Committee, and AO Director James C. Duff, testified before the House and Senate Appropriations Subcommittees on Financial Services and General Government in support of the Judiciary's FY 2008 budget request.

Issue Description: The Judiciary requests $6.43 billion in appropriations in FY 2008. This amount is $80 million below the $6.51 billion included for the Judiciary in the President's FY 2008 Budget. The Judiciary revised its FY 2008 budget request downward as a result of FY 2007 enacted appropriations and other changes that reduced our funding needs. The Judiciary's revised FY 2008 request reflects a 7.6 percent increase over the FY 2007 enacted level.

Of the $452 million increase being requested for FY 2008, $390 million (86 percent) is required to maintain current services for Judiciary accounts to cover standard pay and non-pay inflationary adjustments, and for adjustments to base to cover increases in the Judiciary's space, information technology, defender services, and court security programs.

The remaining $62 million is for program enhancements for courthouse security, information technology improvements, and for an enhancement in the Defender Services program to increase the hourly rate paid to private panel attorneys representing indigent defendants in non-capital federal criminal cases. The Judiciary is not requesting any new staff for clerks and probation offices in the FY 2008 budget request.

The goal of the FY 2008 request is to sustain the staffing gains achieved in FY 2007. After a decade of steady workload growth that was not matched with similar growth in staffing resources, the courts' workload has finally begun to stabilize. With the funding provided in FY 2007, clerks and probation offices will be able to hire more than 200 staff to address critical workload needs and partially close the gap between workload and staffing.

JUDGESHIP LEGISLATION AND JUDICIAL VACANCIES

1. **Update:** At its March 2007 meeting, the Judicial Conference approved a recommendation requesting the creation of additional Article III judgeships and conversion of temporary judgeships into permanent judgeships in the U.S. courts of appeals and the district courts. The recommendations call for:

13 additional permanent judgeships and two temporary judgeships to the courts of appeals;

38 additional permanent judgeships and 14 temporary judgeships to the district courts;

the conversion of five existing temporary judgeships in the district courts to permanent positions; and

the extension of one existing temporary district court judgeship.

The proposed recommendations would also confer Article III status on the judgeships authorized for the U.S. Virgin Islands and would make necessary conforming amendments to existing statutes. A summary of the 2007 Judicial Conference Judgeship Recommendations is contained in Appendix E. The recommendations have been transmitted to the leadership of the Congress and the Judiciary Committee. Briefings are being conducted with key staff of those committees and with member offices representing districts affected by the proposed changes.

Issue Description: Judgeship recommendations are approved by the Conference on a biennial basis and are then provided to Congress. During the past session of Congress however, the issue of creating new judgeships became linked with legislative efforts to reorganize the U.S. Court of Appeals for the Ninth Circuit into two or three new circuits. Although the Ninth Circuit split issue may not be a major issue this session, political concerns may still present considerable obstacles to achieving action on a substantial judgeship package during this Congress.

Judicial Vacancies

As of April 23, 2007, there are 48 Article III judicial vacancies: 14 on the courts of appeals, 34 on the district court. There are 16 judicial emergencies. The Senate has confirmed 15 judicial nominations this session: 2 on the Court of Appeals, 13 on the District Courts. A list of judicial vacancies and nominees is attached as Appendix F. See the attachment to Appendix F for the definition of judicial emergency as revised by the Judicial Conference in March 1999 and further revised in December 2001.

United States District Court
Northern District of Ohio
210 U.S. Courthouse and Custom House
Toledo, Ohio 43604-7310

James G. Carr
Chief Judge

(419) 213-5555
Fax (419) 213-5563
E-Mail: james_g_carr@ohnd.uscourts.gov

May 14, 2007

Senator George V. Voinovich
524 Hart Senate Office Building
Washington, D.C. 20510

Re.: S. 1327 - Renewal of Temporary Judgeship

Dear Sen. Voinovich:

I have been informed that you are a co-sponsor of the legislation to renew the temporary judgeship in our District.

On behalf of our Court and the citizens whom it serves, I write to express our gratitude for your leadership on this important legislation.

Once concurrent legislation is proposed in the House, members of our Court will do what we can to call it to the attention of the Representatives whose districts lie within our Court's jurisdiction.

If, in the meantime, you or any member of your staff has any questions, desires further information, or wishes to suggest anything further that we can do to help have the judgeship renewed, please contact me at your convenience.

Sincerely yours,

James G. Carr
Chief Judge
U.S. District Court

cc: Senator Sherrod Brown
Mr. William Jawando, Sen. Brown's Office
Mr. Doug Dziak, Sen. Voinovich's Office
Geri M. Smith, Clerk of Court

S 1327 IS

110th CONGRESS

1st Session

S. 1327

To create and extend certain temporary district court judgeships.

IN THE SENATE OF THE UNITED STATES

May 8, 2007

Mr. LEAHY (for himself, Mr. BROWNBACK, Mrs. FEINSTEIN, Mr. HAGEL, Mr. INOUYE, Mr. ROBERTS, Mr. BROWN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mrs. BOXER, and Mr. AKAKA) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To create and extend certain temporary district court judgeships.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY JUDGESHIPS FOR DISTRICT COURTS.

(a) Additional Temporary Judgeships-

(1) IN GENERAL- The President shall appoint, by and with the advice and consent of the Senate--

(A) 1 additional district judge for the eastern district of California; and

(B) 1 additional district judge for the district of Nebraska.

(2) VACANCIES NOT FILLED- The first vacancy in the office of district judge in each of the offices of district judge authorized by this subsection, occurring 10 years or more after the confirmation date of the judge named to fill the temporary district judgeship created in the applicable district by this subsection, shall not be filled.

(b) Extension of Certain Temporary Judgeships- Section 203(c) of the Judicial Improvements Act of 1990 (Public Law 101-650; 28 U.S.C. 133 note) is amended--

(1) in the second sentence, by inserting `the district of Hawaii,' after `Pennsylvania,';

(2) in the third sentence (relating to the district of Kansas), by striking `16 years' and inserting `26 years';

(3) in the fifth sentence (relating to the northern district of Ohio), by striking `15 years' and inserting `25 years'; and

(4) by inserting `The first vacancy in the office of district judge in the district of Hawaii occurring 20 years or more after the confirmation date of the judge named to fill the temporary judgeship created under this subsection shall not be filled.' after the sixth sentence.

END

Court Security Legislation

Update: On May 3rd, the House Judiciary Committee's Subcommittee on Crime, Terrorism and Homeland Security (Chairman Scott, D-VA) held a hearing on H.R. 660, the Court Security Improvement Act of 2007. Testimony was given by Judge David Sentelle, Chairman of the Judicial Conference Committee on Judicial Security, in support of the provisions in the bill. The bill is expected to be considered by the Subcommittee in the coming weeks although no date has yet been set.

The Senate version of the bill passed on April 19, 2007.

Issue Description: Both bills contain several important Judicial Conference-supported security provisions, including authority of the Judicial Conference to redact sensitive information from judges' financial disclosure forms, new penalties for the malicious filing of fictitious liens, and a requirement that the US Marshals Service consult with the Judicial Conference on matters relating to court security. The bill also contains a Judicial Conference-supported provision that gives Magistrate judges and Bankruptcy judges Federal Employees Group Life Insurance coverage that is comparable to that of Article III judges. The bill also contains two provisions that increase the role of senior judges in local court governance. One would give senior judges a greater role in the selection of Magistrate judges, a provision which is opposed by the Judicial Conference. The only amendment to the bill would eliminate the twelfth judgeship from the Court of Appeals for the D.C. Circuit and add one the Ninth Circuit.

Legislative History: The "Court Security Improvement Act of 2007," S. 378, was introduced on January 24, 2007 by Senator Patrick Leahy (D-VT), Chairman of the Judiciary Committee. On the same day, Representative John Conyers, Jr. (D-MI) introduced an identical bill in the House as H.R. 660. Judge D. Brock Hornby, Chair of the Judicial Conference Committee on the Judicial Branch, submitted a statement to the Senate Judiciary Committee at its February 14, 2007 hearing on "Judicial Security and Independence." In his statement on behalf of the Judicial Conference, Judge Hornby noted that several attacks on judges, their families, and court employees illustrated security breaches that have caused all judges to be concerned for their safety and well-being. He stated that it would contribute significantly to the security of federal judges and their families. On March 1, 2007 the Senate Judiciary reported out of committee on a voice vote S. 378, the "Court Security Improvement Act of 2007."

<u>Toledo Court House Executive Summary</u>
May 16, 2007

After years of seeking funding, beginning in 1999 the Toledo Court House was initially slated for Design in 1999 and Construction in 2001. This Court House, built in 1932, recently scored 4 out of a possible 100 points in overall security in a U. S. Marshals Service National Security Survey, attributable to the following: no secure elevator for prisoner transport, no secure corridors nor elevator for judges, no secure corridors for prisoner conveyances to and from the courtroom, and no secure parking for judges and courthouse personnel. Additionally, the building has a completely inadequate fire/life safety system including only one enclosed fire stair, which is not accessible to the public on most floors, and no fire suppression system.

1. <u>Site Improvements and Design</u> - Congressional Appropriation of $6.5 Million in FY 2004. GSA has already obtained the site and the design architect has been selected. Our design efforts were frozen by a cost containment moratorium imposed by the Judicial Conference upon all new courthouses while the U.S. Courts Design Guide was being reviewed for modifications in an attempt to reduce construction and operating costs. In June 2006, the Judicial Conference approved an exemption from the moratorium for the Toledo Court House to commence design. In September of 2006, the Judicial Conference lifted the moratorium for all new courthouse projects. GSA currently anticipates commencing design in November of 2007.

2. <u>Construction</u> - Currently Congressional appropriations for construction will be sought by the Administrative Office of the U.S. Courts through GSA for FY 2011. However, the Toledo Court House design will be ready to begin construction in FY 2010, and the Court would ask your support in seeking to expedite Congressional approval of construction funding to FY 2010.

In an effort to reduce construction costs and future rent costs, the Court elected to reduce the size of the New Toledo Court House by one courtroom and associated spaces. Revisions to the U.S. Courts Design Guide have lead to additional space reductions, resulting in a 12% reduction in the current space requirement for the District Court.

Anticipated tenants for the new Court House are the District and Magistrate Judges, the Clerk's Office, the Pre-trial Services and Probation Office (currently in leased space), the Circuit Satellite Library, the U.S. Marshal, and the U.S. Attorney (currently in leased space). It is also my understanding that Congressional offices are also being planned for the new Court House. The Bankruptcy Court would remain in the existing Court House with hopes to complete a renovation, as was done here in Cleveland in the Howard M. Metzenbaum Court House.

FY 2008 Courthouse Construction Program

Update: The House Subcommittee on Economic Development, Public Buildings and Emergency Management (Committee on Transportation and Infrastructure), which authorizes courthouse construction projects, held a hearing on May 10, 2007 on the General Services Administration's (GSA's) FY 2008 public buildings program. On May 18, 2007, the House Subcommittee on Economic Development, Public Buildings and Emergency Management marked up authorizing resolutions for the projects proposed by GSA in FY 2008, but it did not authorize any new courthouse construction projects.

Issue Description: The Judiciary proposed ten courthouse construction projects for FY 2008, but the President's FY 2008 budget included only partial funding for one project, Buffalo, NY. The Judiciary's FY 2008 list included the seven projects proposed for FY 2007 (see previous section), but not yet funded at that time, plus projects in Jefferson City, MO; Mobile, AL; and Rockford, IL. The first four projects on this list, including the Buffalo project, are now being funded under the FY 2007 continuing appropriations resolution, leaving six projects that still require funding on the Judiciary's FY 2008 list.

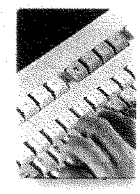
Legislative History: The President's budget for fiscal year 2008 was transmitted to Congress on February 5, 2007. The GSA section of the budget included only $47 million for construction of a new courthouse in Buffalo, NY and no other courthouse construction funding. This was just a portion of the funding required for the Buffalo project. The budget had been approved prior to passage of the fiscal year 2007 continuing resolution, and at a time when the Senate version of the FY 2007 appropriations bill had included the remainder of the Buffalo funding. The budget also included $183 million for two courthouse repair and alteration projects – $12.8 million for the C. Clifton Young Federal Building and Courthouse in Reno, NV, and $171 million for the Thurgood Marshall U.S. Courthouse in New York, NY.

The House Appropriations Subcommittee on Financial Services and General Government held a hearing on GSA's FY 2008 budget for public buildings on April 18, 2007.

Judicial Conference Position: In March 2007, the Judicial Conference approved a new five-year (FY 2008-2012) plan for courthouse construction, with ten projects proposed for fiscal year 2008, at a total funding level of $703.2 million. Four of those projects have now been funded, as noted above, thereby reducing the fiscal year 2008 requirements. Director Duff transmitted the plan to leaders of the congressional appropriations and authorizing committees on March 26, 2007.

United States District Court
Northern District of Ohio

Pro Bono Civil Information



Pro Bono Civil Case Program

Local Civil Rule 83.10 Assignment of Pro Bono Counsel

At the discretion of the judicial officer, counsel may be assigned to represent a pro se litigant in a civil case pursuant to the Court's Pro Bono Civil Case Protocol. Assignment of counsel is not a right of a pro se litigant but may be utilized in those limited cases where the judicial officer believes such an assignment is warranted. Pursuant to the Protocol, a judicial officer may instruct the Clerk's Office to select counsel with experience in the subject matter of the case from the list of attorneys who have volunteered to provide Pro Bono services. The Court will reimburse assigned counsel, pursuant to the Pro Bono Civil Case Protocol, for certain expenses incurred in providing representation up to $1,500.

Pro Bono Protocol (General Order 2007-02)

Application for Attorney Volunteers

Reimbursement Voucher and Instructions

Project Penalty Awareness

Pretrial Services in the Northern District of Ohio has recently launched a public service project aimed at educating the public about federal drug statutes and penalties. The goal of the program, entitled "Project Penalty Awareness" is to provide individuals with a knowledge of what constitutes a federal drug offense and the sentences that typically accompany such crimes. Ideally, if after seeing the program, an individual who otherwise may have chosen a life of drug trafficking, chooses not to engage in drug-related offenses, then the program was a success.

"Project Penalty Awareness" consists of a multi-media effort to educate the public, specifically groups of individuals who may be pre-disposed to engage in drug trafficking activities, about federal drug trafficking offenses and penalties. Printed materials such as posters and pamphlets have been designed and oral presentations have been made to local groups in the Cleveland, Ohio, area.

Below is a list of several of the federal statutes that this project is focusing on:

Title 21, U.S.C. § 841 - Possession with Intent to Distribute a Controlled Substance

Cocaine Powder (500 grams - 5 kilos)	5 - 40 years
Cocaine Powder (5 kilos or more)	10 - Life
Crack (5 - 50 grams)	5 - 40 years
Crack (50 grams or more)	10 - Life
Heroin (100 grams - 1000 grams)	5 - 40 years
Heroin (1 kilo or more)	10 - Life
Marijuana (1 kilo - 100 kilos)	5 - 40 years
Marijuana (100 kilos or more)	10 - Life
Methamphetamine (5 - 50 grams)	5 - 40 years
Methamphetamine (50 grams or more)	10 - Life

* If an offender has one prior felony drug conviction, the penalties double.

** If an offender has two or more felony drug convictions, the statutory penalties for the greater amounts of drugs is mandatory life in prison.

Title 21, U.S.C. § 846 - Conspiracy to Possess with Intent to Distribute a Controlled Substance

Same penalties as listed above

Title 21, U.S.C. § 843 - Use of a Communication Device to Facilitate a Drug Trafficking Offense

First Offense:
Up to four years imprisonment
Second Offense:
Up to eight years imprisonment

Title 18, U.S.C. § 924(c) - Carrying a Firearm During a Drug Trafficking Crime or Violent Crime

First Offense:

Possession	5 years (mandatory and consecutive to any other sentence)
Brandish	7 years (mandatory and consecutive to any other sentence)
Discharge	10 years (mandatory and consecutive to any other sentence)

Second Offense:
25 years (mandatory and consecutive to any other sentence)

Title 18, U.S.C. § 4 - Misprision of a Felony

Up to 3 years imprisonment, up to $250,000 fine

Enhanced Penalties in Addition to Mandatory Minimum Sentences and Other Applicable Penalties:

Title 21, U.S.C. § 859 - Distribution to Persons Under Age 21
Title 21, U.S.C. § 860 - Distribution within 1,000 feet of school, playground, public housing facility, or within 100 feet of a youth center, public swimming pool or video arcade

First Offense:
Twice the maximum penalties

Second Offense:
Three times the maximum penalties

Title 21, U.S.C. § 841 - If Death or Serious Bodily Injury Results From Distribution

Mandatory Life Imprisonment

National Defendant/Offender Workforce Development Program

A little more than a year ago, the Office of Probation and Pretrial Services (OPPS) formalized a national Defendant and Offender Workforce Development (DOWD) Program birth in the Missouri Eastern, but also consisting of Ohio Northern, North Carolina Eastern, Washington Western, and Hawaii. This working group has worked on setting the standards and criteria for other districts to implement the program. Since then, more than 25 districts and more than 100 probation and pretrial services officers across the country have caught "the workforce development fire."

This comprehensive curriculum is certified by the National Career Development Association and meets all the training competencies for certifying global career development facilitators. The core competencies provide participants with information (on labor market trends, job retention, career theory, etc.) to help individuals with criminal records make informed and strategic decisions about their future. With the help of organizations such as Connections to Success, Goodwill Industries, Productive Workforce Development, and many others, the Eastern District of Missouri co-sponsored the first two DOWD Conferences in 2005 and 2006. These conferences help participants develop collaborative partnerships and implement a DOWD initiative in their jurisdictions.

The Western District of North Carolina hosted our third conference this past March titled "Road to Re-Entry: Defendant/Offender Workforce Development Conference." With the help of conference planning committee members, DOWD points of contact *Janie Propst* and *Debbie Fackrell* (North Carolina Western Probation) spearheaded this conference. More than 650 people from as far away as Puerto Rico, Guam, and the Mariana Islands enjoyed a myriad of outstanding keynote and workshop speakers. Attendees included offenders, federal probation and pretrial services officers, representatives from the Federal Bureau of Prisons (BOP), NIC, the U.S. Departments of Labor and Veterans Affairs, state departments of corrections, faith-based and other community organizations, colleges and universities, and employers.

Next year the conference will be held in Cleveland, Ohio, April 13-16, 2008. The Northern District of Ohio□s Pretrial Services and Probation Office will be the host agency. It is expected that more than 1,000 people will attend. More information will be available on the OPPS website and the National Career Development Association□s website.

COURTS IMPROVEMENT LEGISLATION

1. **Update:** In April 2007, the Administrative Office transmitted, on behalf of the Judicial Conference, two proposed courts improvement bills, along with their explanations. These bills are separated into civil and criminal packages reflecting the previous study and recommendations of many Judicial Conference committees. As in prior Congresses, they were provided to congressional leadership for the House and Senate, as well as to key committee and subcommittee leaders.

Issue Description: The civil package, the **"Civil Judicial Procedure, Administration, and Technical Amendments Act of 2007,"** includes sections that would:

Make a juror eligible to receive a $10 supplemental fee after 5 days of service instead of 30.

Provide a district court with discretion in following up on individuals who fail to respond to a jury summons.

Allow fire and police department personnel and public officers to serve on jury duty, unless they request to be excused.

Give the federal courts legislative authority to participate, like other agencies, in the Federal Investments Program managed by the Treasury Department for the investment of court registry funds.

Adjust the disability retirement coverage and cost-of-living annuities adjustments of territorial judges, thereby reducing existing inequities between them and magistrate and bankruptcy judges.

Extend to senior executives in the federal courts, the Federal Judicial Center, and the Sentencing Commission the same ability to carry over up to 720 hours of annual leave as that enjoyed by senior employees in the Executive Branch and the Administrative Office.

Give the Director of the Administrative Office authority to establish a program of supplemental benefits for judicial officers and employees, subject to funding.

Updates a 1939 statute to officially include magistrate judges among the judges who may be invited to attend circuit judicial conferences.

The package of criminal-related proposals, the **"Criminal Judicial Procedure, Administration, and Technical Amendments Act of 2007,"** includes proposals that would:

Allow judges to submit to the AO their wiretap data at the end of each year (as do prosecutors), instead of 30 days after each wiretap order, in preparation for the annual report published by the AO.

Provide that a chief pretrial services officer is to be chosen the same way as a chief probation officer – by the district court.

Increase case compensation maximums for representation of CJA defendants in non-capital cases by the same percentage as any increases in the hourly compensation rates.

Allow a circuit chief judge to delegate to any senior circuit judge or qualified non-judicial officer the review of vouchers in excess of the statutory maximums.

Make technical corrections in a probation and supervised release statute and authorizes intermittent confinement as a condition of supervised release.

Provide for most fines and orders of restitution in criminal offenses to be treated as civil debts, payable immediately and collectable by the Department of Justice or the victim.

Explicitly authorize the Director of the Administrative Office to provide treatment and non-treatment services to pretrial defendants and post-conviction offenders.

Allow for an upward adjustment of the supervised release term for offenders with extensive criminal histories.

Restore general discretion to the Bureau of Prisons in determining at what point and for how long an inmate may serve part of their sentences in a residential re-entry center.

Modify the penalty for failure to respond to a jury duty summons by increasing the maximum fine from the current $100 to $5,000 and adding the potential penalty of community service.

Federal Courts Improvement Proposals

Legislation supported by the Judicial Conference of the United States – the Policy-making Body for the Federal Judiciary

In April 2007, the Administrative Office of the U.S. Courts, on behalf of the Judicial Conference of the U.S., transmitted to congressional leadership in the Senate and House of Representatives two proposed courts improvement bills, along with their explanations. The bills, which are separated into civil and criminal packages, reflect the prior study and recommendations of many Judicial Conference committees. Enactment of these provisions, which are listed below, will improve the operation and administration of the federal courts.

CIVIL JUDICIAL PROCEDURE, ADMINISTRATION, AND TECHNICAL AMENDMENTS ACT OF 2007

Sec. 2. Change in composition of divisions of Western District of Tennessee.
Sec. 3. Supplemental attendance fee for petit jurors serving on lengthy trials.
Sec. 4. Authority of district courts as to a jury summons.
Sec. 5. Public drawing specifications for jury wheels.
Sec. 6. Assessment of technology costs during trials.
Sec. 7. Allowing jury service of police and fire officials and public officers.
Sec. 8. Authority of bankruptcy administrators in Alabama and North Carolina.
Sec. 9. Repeal of obsolete provision in the Bankruptcy Code relating to certain dollar amounts.
Sec. 10. Investment of court registry funds.
Sec. 11. Disability retirement and cost-of-living adjustments of annuities for territorial judges.
Sec. 12. Annual leave limit for judicial branch executives.
Sec. 13. Supplemental benefits program.
Sec. 14. Magistrate judge participation at circuit conferences.
Sec. 15. Federal Judicial Center personnel matters.
Sec. 16. Place of holding court for the Southern District of Iowa.

CRIMINAL JUDICIAL PROCEDURE, ADMINISTRATION, AND TECHNICAL AMENDMENTS ACT OF 2007

Sec. 2. Statistical reporting of wiretap orders.
Sec. 3. Selection of chief pretrial services officers.
Sec. 4. Attorney case compensation maximum amounts.
Sec. 5. Expanded delegation authority for reviewing Criminal Justice Act vouchers in excess of case compensation maximums.
Sec. 6. Transportation and subsistence for Criminal Justice Act defendants.
Sec. 7. Intentional tort coverage for U.S. probation and pretrial services officers under the Federal Tort Claims Act.
Sec. 8. Repeal of obsolete cross-references to the Narcotic Addict Rehabilitation Act.
Sec. 9. Conditions of probation and supervised release.
Sec. 10. Improvements for criminal fine collection and orders of restitution.
Sec. 11. Contracting for services for pretrial defendants and post-conviction supervision offenders.
Sec. 12. Federal defender as ex officio member of U.S. Sentencing Commission.
Sec. 13. Judge members of U.S. Sentencing Commission.
Sec. 14. Foreign Intelligence Surveillance Court authorization to sit en banc.
Sec. 15. Extended terms of supervised release.
Sec. 16. Not profiting from crime as mandatory condition of probation and supervised release.
Sec. 17. Order of general restitution in warranted criminal cases.
Sec. 18. Clarification for permitted designations to residential re-entry centers.
Sec. 19. Penalty for failure to appear for jury summons.
Sec. 20. Clarification of penalty enhancements for recidivists.

Office of Legislative Affairs, Administrative Office of the U.S. Courts (202-502-1700) 5/07
Thurgood Marshall Federal Judiciary Building, One Columbus Cir., NE, Suite 7-110, Washington, DC 20544

Mr. KUCINICH. Thank you, Judge Pianka. And I want to thank you for the dedicated service that you've given in the housing court. I had the chance to serve with Judge Pianka and you really have done an outstanding job. Your entire testimony will be included in the record, and at this point we'll go to our next witness. Next we're going to hear from Professor Engel, a professor from the Marshall School of Law.

STATEMENT OF KATHLEEN ENGEL, PROFESSOR, MARSHALL SCHOOL OF LAW

Ms. ENGEL. Thank you. I think it's an honor and a privilege to——

Mr. KUCINICH. Is your mic on, please?.

Mr. ISSA. Little green light.

Ms. ENGEL. Can you hear me now?

It's an honor and a privilege to testify today on this critically important issue. My name is Kathleen Engel and together with my co-author, Patricia McCoy, I've been engaged in extensive research on issues related to predatory lending. I was asked today to briefly discuss three issues. First, the emergence of predatory lending in underserved neighborhoods.

Second, the targeting of borrowers of color with abusive loans, and, last, the role that CRA can play in enabling and curtailing predatory lending.

I'll turn first to the growth of abusive lending in low and moderate income neighborhoods. Historically, people with weak or a blemished credit history were ineligible for credit. The development of the securitization of home mortgages and the deregulation of lenders in the 1990's ushered in a new home-lending market, making credit available for low and moderate-income borrowers.

The same forces led to the appearance of a new breed of unregulated lenders offering an array of subprime loan products. These lenders market their products in areas with the highest levels of pent-up demand for loan. That is neighborhoods that have not had access to credit in the past.

Making credit available to borrowers in these areas is not a bad thing. The problem is that some of these lenders are making loans on terms that are, per se, harmful. These loan terms are harmful not only to the borrowers but to the community as you've observed in Slavic Village.

Too often lenders are making loans knowing that borrowers ultimately will not be able to afford the repayments. We would expect that banks would enter the subprime loan market and undercut the abusive lenders with competitive products that don't contain abusive terms, thus, driving the worst lenders out of the market.

This has not happened. There are many explanations for why banks might be reluctant to enter the subprime market directly, and why banks more generally may choose to leave lower-income neighborhoods. Those explanations are beyond the scope of my testimony today. What is important is that because banks have little or no presence in these communities, abusive lenders can proliferate and exploit venerable borrowers.

This leads me to my second point. The marketing of the most abusive loans are to people of color. There is increasing evidence that, on the whole, people of color pay more for mortgage loans than Whites with similar incomes and credit histories. This is adding insult to injury. For centuries, this country engaged in de jure discrimination that prevented Blacks and Hispanics from owning homes.

Laws prohibiting discrimination and programs aimed at increasing home ownership has changed the tide and led to increased rates of home ownership among people of color. Now, abusive lenders are taking these homeowners' hard-fought gains in equity.

The impact of lending abuse is not limited to people losing their homes. When neighborhoods experience decline because of foreclosure and property abandonment, all homeowners, even though without mortgages, see declines in their property values. Crime rates increase, cities lose tax revenues and cities find themselves spending money boarding up houses, money that could be used to invest in these very fragile neighborhoods. My final point addresses CRA's role in predatory lending. This is also the topic of an article that I have attached to my testimony. The two important questions on this topic are, does CRA credit incentives for predatory lending and could CRA serve as a tool to combat predatory lending?

I contend that the answer to both questions is yes. An unintended consequence of CRA is that it permits banks to earn CRA credit for financing predatory loans. For example, the bank purchases loans, it may be fulfilling its obligations under the lending test. Similarly, a bank that purchases securities backed by predatory loans may be able to claim credit under the investment test if the investments fall within CRA guidelines. Banks can also directly finance lenders, predatory lenders, through warehouse lines of credit and loan guarantees. In thinking about how regulators can employ CRA to combat predatory lending, the minimum first step is to increase that lenders are not receiving CRA credits for financing predatory loans and predatory lenders and sanctioning banks that are engaging in such activities.

In addition, CRA exams should include bank affiliates and subsidiaries, which are vehicles through which banks can engage in predatory lending without sanction.

Last, regulators need to actively encourage and reward banks that develop loan products designed to compete with abusive lenders in underserved neighbors. These loan products should include vehicles through which borrowers can refinance predatory loans. CRA is a powerful tool that if employed more aggressively, could help deter predatory lending and help communities like ours recover by infusing neighborhoods with good credit products.

Thank you again for the opportunity to present this testimony.

[The prepared statement of Ms. Engel follows:]

Predatory Lending and CRA

U.S. House of Representatives
Committee on Oversight and Government Reform
Domestic Policy Subcommittee
Field Hearing

Written Testimony
of
Kathleen C. Engel
Associate Professor of Law
Cleveland- Marshall College of Law
Cleveland State University

May 21, 2007

It is an honor and privilege to testify today on this critically important topic. My name is Kathleen Engel and, together with my co-author, Patricia McCoy, I have been engaged in extensive research on issues related to predatory lending. In my testimony today, I will briefly discuss three topics that the Chairman asked me to address: (1) the emergence of predatory lending in underserved neighborhoods; (2) the targeting of borrowers of color with abusive loans; and (3) the role that CRA can play in enabling and curtailing predatory lending.

I will turn first to the growth of abusive lending in low- and moderate- income neighborhoods. Historically people with weak or blemished credit histories were ineligible for credit. The development of securitization of home mortgages and the deregulation of lenders in the 1990's ushered in a new home lending market, making credit available for low- and moderate- income borrowers. The same forces led to the appearance of a new breed of unregulated lenders offering an array of subprime loan products. These lenders market their products in areas with the highest levels of pent-up demand for loans, that is neighborhoods that have not had access to credit in the past. Making credit available to borrowers in these areas is not a bad thing. The problem is that some of these lenders are making loans on terms that are *per se* harmful to borrowers and their communities. Too often, lenders make loans knowing that borrowers ultimately will not be able to afford the monthly payments.

We would expect that banks would enter the subprime loan market and undercut the abusive lenders with competitive products that do not contain abusive terms, thus driving the worst lenders and loans from the market. This has not happened. There are many explanations for why banks might be reluctant to enter the subprime market and why banks, more generally, may chose to leave lower income neighborhoods; those explanations are beyond the scope of my testimony today. What is important is that because banks have little or no presence in these communities, abusive lenders can proliferate and exploit vulnerable borrowers.

This leads me to my second point—the marketing of the most abusive loans to people of color. There is increasing evidence that, on the whole, people of color pay more for home mortgage loans than whites with similar loans, incomes, and credit histories. This is adding insult to injury. For centuries, this country engaged in *de jure* discrimination that prevented blacks and Hispanics from owning homes. Laws prohibiting discrimination and programs aimed at increasing homeownership have changed the tide and led to increased rates of homeownership among people of color. Now, abusive lenders are taking these homeowners' hard-fought gains in home equity.

The impact of lending abuses is not limited to people losing their homes. When neighborhoods experience decline because of foreclosure and property abandonment, all homeowners, even those without mortgages, see declines in their property values. Crime rates increase, cities lose tax revenues, and cities find themselves spending money boarding up houses, money that could be used to invest in these fragile neighborhoods.

My final point addresses CRA's role in predatory lending. This is also the topic of the article attached to this testimony. The two important questions on this topic are: does CRA create incentives for predatory lending and could CRA serve as a tool to combat predatory lending? Pat McCoy and I contend that the answer to both questions is yes.

An unintended consequence of CRA is that it permits banks to earn CRA credit for financing predatory loans. For example, if a bank purchases predatory loans, it may be fulfilling its obligations under the lending test. Similarly, a bank that purchases securities backed by predatory loans may be able to claim credit under the investment test if the investments fall within CRA guidelines. Banks can also directly finance predatory lenders through warehouse lines of credit and loan guarantees.

In thinking about how regulators can employ CRA to combat predatory lending, the minimum first step is to insure that lenders are not receiving CRA credit for financing predatory loans and predatory lenders, and sanctioning banks that are engaging in such activities. In addition, CRA exams should include bank affiliates and subsidiaries, which are vehicles through which some banks are engaged in predatory lending. Lastly, regulators need to actively encourage and reward banks that develop loan products designed to compete with abusive lenders in underserved neighborhoods. These loan products should include vehicles through which borrowers can refinance predatory loans. CRA is a powerful tool that if employed more aggressively could help deter predatory lending and help communities like ours recover by infusing neighborhoods with good credit products.

Thank you again for the opportunity to present this testimony.

Chairman KUCINICH. Thank you very much for your testimony. And the Chair wishes to acknowledge the presence in the audience of Federal Judge Polster. Thank you, Your Honor, for being here.

We're going to move to the next member of the panel, Mr. Pollock from the American Enterprise Institute. Thank you so much for being here today.

STATEMENT OF ALEX POLLOCK, RESIDENT FELLOW, AMERICAN ENTERPRISE INSTITUTE

Mr. POLLOCK. Mr. Chairman and Ranking Member Issa, thank you very much for the chance to be here. We heard some really interesting discussion of the difference between Ohio and California a little earlier. I'm trying to, in my testimony, to set all of these discussions in the national and historical context, the written testimony, which I'll say a word or two about, covers five issues. The evolution of the American banking structure, as we begin, that's talking about the bank mergers. The context for the subprime mortgage market, delinquencies in Ohio in particular, the general topic of information asymmetries and, finally, my proposal for a one-page mortgage disclosure document, which, I believe, if we don't do anything else or even if we do other things, we ought to do that.

First, American banking structure briefly, in 1970 when I was new in the banking business, there were about 13½ thousand banks in the United States. Now, there are about half that many, so we've had a consolidation. But they, at the same time, have about doubled the amount of banking offices. And relative of the population, the density, if you want to think about it, that way has increased by about 60 percent in addition, of course, to building an amazingly, global network, ATM network and the provision of debit cards, which are checking accounts in your pockets. So, the banking consolidation on average has been accompanied by much greater convenience and access to the payment systems, the banking system.

On a subprime mortgage market, let me say we all know that there was an unsustainable expansion of subprime mortgage credit along with an unsustainable house price inflation. That's now been reversed. We've had large financial losses suffered by lenders of investors, layoffs, bankruptcy and subprime lenders. The accelerating delinquencies and foreclosures we discussed here this morning, the recession in home building, tightening liquidity, recriminations.

As a student of financial history and one whose lived about close to four decades of financial history, this strikes me as displaying the classic patterns of credit overexpansions and ensuing busts. I will say one point, expansions and busts is emergency housing acts. We've had, since 1974, emergency housing acts, not counting the one for Katrina, which is an act of nature and not an act of finance.

Subprime mortgages grew from about 2½ percent to 13½ percent of total mortgage loans, but over the last several years interestingly prime loans also increased their share. So, one might ask how can—these are numbers of the Mortgage Bankers Association I'm using here. How can the prime loans have the same increase at the same time as subprime? The answer is subprime basically misplaced the government programs, the FHA and VA programs, which are also non-prime lending programs.

If you look at the sum of subprime and the non-prime government programs at stake, more or less the same. One of the things that happened, as Ranking Member Issa pointed out, a lot of people experience success. If you took an extremely risky loan, and, let's say, 100 percent loan with an adjustable rate, you've bought a house that went up a lot and in the house boom, you experience success. And it is success always that sets up the boom that sets up the bust.

The question I wish to pose is, should you be able to take a chance, as a borrower, if you want to?

Should you be able to take a chance as a lender, and the answer is, yes, you should, but we need to have a reasonability of what you're doing.

On Ohio, just briefly, it's interesting to me, that if we look at all the classes of loans in Ohio, Ohio's serious delinquency rate, which means loan 90 days in arrears or in foreclosure, are roughly twice the national averages in all categories. That's true for prime and fixed rate loans or prime floating rate loans or FHA loans, and for subprime fixed rate loans. So, there's something broader going on in Ohio as we've discussed its economic problems, problems like unemployment rate, low employment growth, which is equally as important as unemployment, and obviously the structural changes that we're aware of. I want to say how much I agree with Ranking Member Issa's view, that if you buy with the proper income, you get a loan, and you don't qualify as a victim. And the liar's loans, no-doc loans have a long history of performing poorly in credit. We've just reinvented and rediscovered that history, and it's a good example of what economists call information asymmetry—may I have 30 more seconds, Mr. Chairman?

Mr. KUCINICH. Sure.

Mr. POLLOCK. And my view is that the nature of the loan and its relationship to the borrower's income, both for the borrower and the lender, need to be clearly and easily accelerized in a one-page form, which I have designed and included in my testimony.

When we have extremely complex disclosures, which we have, they fail. They fail to deliver any meaningful information to the borrower in the result of confusion. And as I say, whatever else we may do, we ought to insure a really simple, clear disclosure to all borrowers, subprime and prime, which includes their income so they can really see it, the relationship of the payments on this loan to their income.

The fully indexed payments on this loan, once the rates reset and its the relationship to their income, I think if we do that, that's one step that will be very good for the country and also for Ohio.

Mr. KUCINICH. I certainly appreciate your testimony.

[The prepared statement of Mr. Pollock follows:]

Testimony of

Alex J. Pollock
Resident Fellow
American Enterprise Institute

To the Subcommittee on Domestic Policy
Committee on Oversight and Government Reform

United States House of Representatives

Hearing on Bank Mergers and Subprime Mortgage Credit Problems

Cleveland, Ohio
May 21, 2007

Bank Consolidation, Subprime Mortgage Issues, and the One-Page Mortgage Disclosure

Mr. Chairman, Ranking Member Issa, and members of the Subcommittee, thank you for the opportunity to be here today. I am Alex Pollock, a Resident Fellow at the American Enterprise Institute, and these are my personal views. Before joining AEI, I spent 35 years in banking, including 12 years as President and CEO of the Federal Home Loan Bank of Chicago, and am a Past President of the International Union for Housing Finance. I have both experienced and studied many credit cycles, of which the subprime mortgage boom and bust is the latest example.

I will address five topics:

-The evolution of American banking structure

-The subprime mortgage bust in context

-The case of Ohio

-Information asymmetries

-The one-page mortgage disclosure proposal

The Evolution of American Banking Structure

In 1970, when I was just beginning in the banking business, there were about 13,500 banks in the U.S. By 2005, there were about 7,500—a reduction almost in half. How should we think about this consolidation?

The historical context is that the normal evolution of banking to a national basis, to match the evolution to a national U.S. economy in other respects, was blocked for decades by artificial legislative and regulatory barriers. This resulted in a fragmented, less efficient, and more risky banking system composed of mostly undiversified small entities. When the barriers to the natural development were removed, the delayed consolidation, which is still in process, began.

This does not result in reduced access to banks—just the opposite. In 1970, there were about 44,600 banking offices, mostly branches; by 2005, this had increased to about 80,300. So while the number of banks halved, the number of banking locations about doubled. They significantly increased per capita—from 1.7 to 2.8 locations per 10,000 of population, or about a 60% increase.

Of course, that does not count off-site ATMs, which weren't there in 1970, but have grown to 260,000, networked across the country and indeed the world. Nor does it include debit cards, then nonexistent, now ubiquitous, with more than 270 million in circulation.

In short, on a national basis, bank consolidation has been accompanied by much greater convenience and access to the banking and payment system.

I am by no means an expert on Cleveland. However, between 1970 and 2005, the population of the city fell from 751,000 to 415,000, or about 45%. If Cleveland matched the national averages, the increase in banking offices per capita combined with the population decline would mean a reduction of about 12% in banking locations. At the same time, there would have been a notable increase in the number of ATMs and debit cards.

The Subprime Mortgage Bust in Context

As we all know, the unsustainable expansion of subprime mortgage credit which accompanied the great house price inflation of the past several years is in reverse. The market is correcting sharply and rapidly. Former enthusiasm has been replaced by large financial losses, layoffs, bankruptcy of subprime lenders, accelerating delinquencies and foreclosures, a recession in homebuilding, tightening liquidity, and of course, recriminations. The subprime boom is over; the bust is here.

All these elements display the classic patterns of recurring credit overexpansions and their aftermath. Such expansions are based on optimism and a euphoric belief in the ever-rising price of some asset class—in this case, houses and condominiums. This appears to offer a surefire way for lenders and borrowers to make money. The booms are inevitably followed by a hangover of defaults, failures, dispossession of unwise or unlucky borrowers, revelations of fraud and scandals, and late-cycle regulatory and political reactions.

With regard to last point, since 1970 we have had the Emergency Home Finance Act of 1970, the Emergency Housing Act of 1975, The Emergency Housing Assistance Act of 1983, and the Emergency Housing Assistance Act of 1988. (I do not count the Hurricane Katrina Emergency Housing Act of 2005, a special case.) The eminent financial historian, Charles Kindleberger, estimated that over the centuries, financial crises of various kinds recur about once a decade on average, and so have emergency housing acts.

In the general pattern of credit overexpansions, nothing changes. You would think that we would learn, but we don't.

This time, we had a period of remarkably rising house prices—the greatest house price inflation ever, according to Professor Robert Shiller of Yale University. This stimulated the lenders—and it stimulated the borrowers. If the price of an asset is always rising, the risk of the loan seems less and less to both.

Subprime mortgages grew from 2.4% to 13.7% of total mortgage loans from 2000 to 2006, according to the Mortgage Bankers Association. Interestingly, however, the MBA numbers show that the proportion of prime loans also increased, from 72.6% to 76.6%. How could both increase? Because the share of the government's FHA and VA loans—also nonprime—fell from 25.2% to 9.7%. So subprime loans basically took share away from the government alternatives. If we add together the subprime, FHA and VA shares as the nonprime total, it falls from 27.6% to 23.4% over the six-year period. Of course all the whole market was growing rapidly.

Booms are usually accompanied by a theory that we are in a "new era": the subprime mortgage boom was no different. A good example of such thinking was a 2005 book by an expert housing economist entitled, Are You Missing the Real Estate Boom? The Boom Will Not Bust and Why Property Values Will Continue to Climb Through the Rest of the Decade. It began, "The recent U.S. real estate boom has made money for an incredible number of households in America."

This is a key point. The boom gets going because many people experience financial success. This so-far successful speculation is extrapolated. Subprime borrowers could get loans to buy houses they would otherwise be unable to and benefit from subsequent price appreciation. A borrower who took out a very risky 100% LTV, adjustable rate mortgage with a teaser rate to buy a house which subsequently appreciated 30% or 40% now had substantial equity and a successful outcome as a result of taking risk.

Should people be able to take such risks if they want to? Yes, but they should have a reasonable idea of what they're doing.

Mortgage finance has some reliable systematic risk factors, and the subprime boom had all these factors operating together:

-Subprime loans have higher defaults and losses than prime loans

-Adjustable rate loans of all kinds have higher defaults and losses than fixed rate loans

-High loan-to-value (LTV) loans have higher defaults and losses than low LTV loans

-Low documentation loans have higher defaults and losses than standard documentation loans.

Current statistics reflect all these fundamental factors. The subprime mortgage lenders knew all these statements were true, but the risk acceleration of the boom outstripped the expectations of their models.

The national foreclosure rate on subprime mortgages of 4.5% at the end of 2006 was well below its recent peak of over 9% in 2000, but is rising. The foreclosure rate for the oil patch mortgage loan bust of the 1980s peaked at 14.9% for Arkansas, Louisiana, Mississippi and Oklahoma—an extreme experience used for stress tests by the bond rating agencies.

Booms almost always induce fraud, misrepresentation and scandals. National Mortgage News recently referred to "the explosion of mortgage fraud," that is, the lenders being defrauded.

Consider in this context the spread of so-called "stated income" loans. The disastrous previous experience with this idea, then called "no doc" or "low doc" loans, seems to have been forgotten. They have the now-familiar name of "Liars' Loans," since they are an obvious temptation to exaggerate income in order to get the loan to buy the house you want.

A study cited by a COHHIO paper, "Dimensions of Ohio's Foreclosure Crisis," suggests that "over 90% of stated income loans had inflated incomes." Personally, I doubt that it is that high, but do not doubt that it is widespread. Subprime borrowers with defaulted loans have sometimes been referred to as "victims." In my view, however, people who lied about their income to get a loan do not qualify as victims. In the one-page disclosure I will discuss further below, an essential item is a clear and unambiguous confirmation of the household income upon which the loan is based.

The Case of Ohio

Ohio has the highest percentage of mortgage loans in foreclosure among states, according to MBA statistics, at 3.38%, compared to a national average of 1.19%. It has a relatively high share of subprime loans at 15.4%, compared to a national average of 13.7%. It also has a high rate of homeownership, 73.3%, up from 68.7% in 1990 and well over the national average of 69%. It has relatively high unemployment (5.6%) and low job growth (0.1% year over year), two factors significantly correlated with mortgage loan defaults. Its statistics are quite similar to those of neighboring Michigan and Indiana, but with the highest serious delinquency rate of the three and indeed in the U.S.

The serious delinquency rate, a key credit indicator, is the sum of loans 90 days past due and in foreclosure. Ohio's rate is 5.12%.

But this is not only a subprime problem. Ohio's serious delinquency rate is approximately twice the national average in all loan categories. It is 2.1 times the average in subprime ARMs, 2.2 times in subprime fixed, 1.6 times in FHA loans—and 2.7 times the average in prime ARMs and 2.7 times the average in prime fixed rate loans.

The specific serious delinquency rates of Ohio vs. the U.S. average are as follows:

	Ohio		U.S.
Subprime ARMs:	19.03%	vs.	9.16%
Subprime fixed rate:	13.05%	vs.	6.04%
FHA:	9.43%	vs.	5.78%
Prime ARMs:	3.89%	vs.	1.45%
Prime fixed rate:	1.95%	vs.	0.69%

It is interesting that for the country as a whole, FHA loans, which are predominately fixed rate, have a serious delinquency rate very similar to fixed rate subprime loans. This is not true for Ohio, however.

Also interesting is that according to the 2007 COHHIO study, "contrary to popular perceptions more subprime mortgages were originated in Ohio's middle and upper income areas, than in moderate and low income areas....Subprime loans are now a predominately middle and upper income product."

All in all, the problems are obviously serious, but they appear to me more complex than a simple "subprime loans" story.

Information Asymmetries

"Information asymmetries" is an academic way of describing a common problem in financial and other transactions when one party knows a lot more about the relevant matters than the other—or stated the other way, when one party is naïve and uninformed and the other is the opposite. This is a classic problem with various remedies. It is quite interestingly discussed in the mortgage context by Professors Engel and McCoy in their paper, "A Tale of Three Markets," although I reach a different conclusion than they do.

If we are worried that A is insufficiently knowledgeable to be able to achieve a fair transaction, there are two fundamental approaches. One is to appoint B to take care of A. This is the class of regulatory or fiduciary approaches, paternalistic in various degrees. The other is to require B to tell A the truth and equip A to take care of himself. This is the class of disclosure approaches, which maintain that people will protect their own interests if they have the relevant information.

To help address the shortcomings of the subprime market which have become evident, I believe a new, superior disclosure approach is needed, whether or not we do anything else. The key is to realize that complex, lengthy statements in regulatoryese and legalese do not achieve the goal. Moreover, the simple, clear disclosure should be focused on the financial impact on the borrower, not on the financial instruments. Of this, more in a moment.

Another information asymmetry which has characterized the subprime mortgage boom is the difference between the credit knowledge possessed by the party actually making the loan and the investor buying the security. This is a general problem with securitized markets.

I believe that in an ideal mortgage finance system, the loan originator should always maintain a significant credit risk position in the loan, which creates a superior alignment of incentives. This is always my advice to developing countries as they consider housing finance ideas. As it did in the subprime mortgage boom, securitization typically breaks the link between the originator of the loan and who actually bears the credit risk. This can lead to less careful lending.

But securitization, as it developed in the 1980s, also saved the fixed rate mortgage loan. Remember that fixed rate mortgages kept in portfolio by the savings and loans were the basic cause of the savings and loan collapse of the 1980s, due to their interest rate risk.

Financial markets are always experimenting with how best to move risks around, but risk cannot be made to disappear.

The Ohio Attorney General has recently announced that he plans to sue subprime mortgage lenders and investment banks on behalf of both borrowers and the Ohio Public

Employees Retirement System, which invested in subprime mortgage-backed securities. The argument would be that there were unfair information asymmetries on both ends.

However, the Attorney General should be glad that investors in subprime assets are not legally responsible for the actions of the lenders—as some people have suggested they should be—or he would have to sue his own Retirement System.

The One-Page Mortgage Disclosure Proposal

When considering borrowers in financial trouble, whether from unwise borrowing, not having understood the loan, or even induced into loans by misrepresentation, there is a natural political reaction to try to protect them through credit regulation.

I believe a superior strategy is to equip borrowers to protect themselves by requiring short, simple and clear disclosures of the key mortgage loan terms and their relation to household income. The borrowers can then "underwrite themselves." They have the natural incentive to do so—we need to add intelligible, practical information.

Thus I propose there should be a required one-page form which gives the essentials of the loan and its monthly cost, which must be given to every mortgage borrower three days before closing.

A good mortgage lender wants a borrower who understands how the loan will work, including any possible future interest rate increases and prepayment penalties. The total monthly obligation needs to be put clearly in the context of the borrower's income.

Current American mortgage loan documents certainly do not achieve this. Most of us have had the experience of being overwhelmed and befuddled by the huge stack of documents full of confusing language in small print presented to us for signature at a mortgage closing. The complexity results from legal and compliance requirements. Ironically, past regulatory attempts to insure full disclosure have made the problem worse. That is because they attempt full, rather than relevant, disclosure.

To achieve an informed borrower, the key information must be simply stated and clear, in regular-sized type: 90% of the relevant information which is clear and understandable is far better than 100% of the details which are complex and hard to read. Trying to describe the details in specific legal and bureaucratic terms results in essentially zero information transfer to the borrower.

The one-page form should include key underwriting concepts, including the borrower's income and housing expense ratio, as well as principal loan terms. The "housing expense ratio" means the sum of the monthly interest payment, principal payment, property tax, and house insurance premium, expressed as a percent of the borrower's monthly income. This should be shown for both the initial interest rate and the fully-indexed interest rate.

In typical types of subprime loans, the fully-indexed expense ratio can be a remarkably larger burden than the initial or "teaser" rate suggests.

The proposed one-page "Basic Facts About Your Mortgage Loan" form, with accompanying common sense explanations and avuncular advice, is Attachment 1.

The Shadow Financial Regulatory Committee, while rejecting on economic grounds a number of other proposals for government actions, supports the simplified disclosure approach as "the only reform that merits attention at this time." Their statement is Attachment 2.

One of the deans of mortgage journalists has written of how the one-page proposal is distinct from previous regulations and simplification attempts. His article is Attachment 3.

Whatever else is done or not done, I believe the one-page disclosure would be an important step forward for America's and Ohio's mortgage borrowers and housing finance system.

Thank you again for the opportunity to share these views.

Attachment 1: "The Basic Facts About Your Mortgage Loan"

Attachment 2: "Subprime Mortgage Lending Remedies and Concerns"

Attachment 3: "Form Simplifies Rules for Lending Process"

THE BASIC FACTS ABOUT YOUR MORTGAGE LOAN

Borrower: ______________________ Property address: ______________________

______________________ ______________________

____

Lender: ______________________

Amount of loan: $ ______________, which is ______% of the property's appraised value.

Your loan is for ________ years. Its final maturity date is ______________________.

The type of loan you have: ______________________

Your beginning interest rate is ________%. This rate is good for ________ months/years. The rate and your payment can go higher on ______________________ and each ________ months after that.

Today's estimate of how high the rate will go, called the fully indexed rate, is ________%.

The maximum possible rate on your loan is ________%.

THIS LOAN IS BASED ON YOUR MONTHLY INCOME OF $______________________.

Your beginning rate = a monthly loan payment of $______________ = ________% of your income.

-including taxes and insurance this is about $______________ = ________% of your income.

The fully-indexed rate = a loan payment of $______________ = ________% of your income.

-including taxes and insurance this is about $______________ = ________% of your income.*

*This is called your fully indexed housing expense ratio.

Special factors you must be aware of:

-A prepayment fee of $____________ must be paid if______________________.

-A "balloon payment" of $____________to pay off your loan will be due on ______________.

-You do/do not have a "payment option" loan. If you do, make sure you really understand what this means. Start with the definition on p. 3.

Total "points" plus estimated other costs and fees due at closing are $ ______________________.

FOR QUESTIONS CONTACT: Name: ______________________

Phone: ______________ e-mail: ______________

See definitions of underlined terms and guidelines on pages 2–3.

DO NOT SIGN THIS IF YOU DON'T UNDERSTAND IT!

____

Borrower Date

______________________ ______________________

Authorized Signer of Lender Date Borrower Date

POLLOCK/AMERICAN ENTERPRISE INSTITUTE/2007

The Basic Facts about Your Mortgage Loan

This form gives you the basic facts, but some mortgage forms may use terms not listed here. For a good, borrower-friendly information source, try the Mortgage Professor online (www.mtgprofessor.com), which includes detailed explanations of the technical mortgage terms in its glossary and other helpful information.

Definitions and Guidelines Used in This Form

The *appraised value* is what a professional appraiser estimates the house could be sold for in today's market.

The *type of loan* determines whether and by how much your interest rate can increase. If it can, your monthly payments will also increase—sometimes by a lot. For example, in a thirty-year fixed-rate loan, the interest rate is always the same. In a one-year ARM, it will change every year. In a 2/28 hybrid, it will be the same for two years and then go up a lot, and change frequently after that.

The *beginning interest rate* is the interest you are paying at the beginning of the loan. It is the rate which you will hear the most about from ads and salespeople. But how long is it good for and when will rates increase? In many types of loans, the rate will go up by a lot. You need to know.

The *fully-indexed rate* is an essential indicator of what will happen to your interest rate and your monthly payments. It is today's estimate of how high the interest rate on an adjustable rate mortgage will go. It is calculated by taking a defined "index rate" and adding a certain number of percentage points, called the "margin." For example, if your formula is the one-year Treasury rate plus 3 percent, and today the one-year Treasury rate is 5 percent, your fully-indexed rate is 5% + 3% = 8%. This will *always* be higher than your beginning rate.

The index rates are public, published rates, so you can study their history to see how much they change over time. If the index rate stays the same as today, the rate on your loan will automatically rise to the fully-indexed rate over time. Since the index rate itself can go up and down, you cannot be sure what the future adjustable rate will be. In any case, you must *make sure you can afford the fully-indexed rate*, not just the beginning rate, which is often called a "teaser rate" for good reason.

The *maximum possible rate* is the highest your interest rate can go. Most loans with adjustable rates have a defined maximum rate or "lifetime cap." You need to think about what it would take to make your interest rate go this high. How likely do you think that is?

Your *monthly income* means your gross, pretax income per month for your household. This should be an amount which you can most probably sustain over many years. Make sure the monthly income shown on this form is correct.

Your *monthly payment including taxes and insurance* is the amount you must pay every month for interest, repayment of loan principal, house insurance premiums, and property taxes. Expressed as a percent of your monthly income, this is called your housing expense ratio. Over time, in addition to any possible increases in your interest rate and how fast you must repay principal, your insurance premiums and property taxes will tend to increase. Of course, your monthly income may also increase. How much do you expect it to?

Your *fully-indexed housing expense ratio* is a key measure of whether you can afford this loan. It is the percent of your monthly income it will take to pay interest at the fully-indexed rate, plus repayment of principal, house insurance, and property taxes. The time-tested market standard for this ratio is 28 percent; the greater your ratio is, the riskier the loan is for you.

A *prepayment fee* is an additional fee imposed by the lender if you pay your loan off early. Most mortgages in America have no prepayment fee. If yours does, make sure you understand how it would work before you sign this form.

A *"balloon payment"* means that a large repayment of loan principal is due at the end of the loan. For example, a seven-year balloon means that the whole remaining loan principal, a very large amount, must be paid at the end of the seventh year. This almost always means that you have to get a new loan to make the balloon payment.

A *"payment option" loan* means that in the years immediately after securing a mortgage loan, you can pay even less than the interest you are being charged. The unpaid interest is added to your loan, so the amount you owe gets bigger. The very low payments in early years create the risk of very large increases in your monthly payment later. Payment option loans are typically advertised using only the very low beginning or "teaser" required payment, which is less than the interest rate. You absolutely need to know four things: (1) How long is the beginning payment good for? (2) What happens then? (3) How much is added to my loan if I pay the minimum rate? (4) What is the fully-indexed rate?

"Points" are a fee the borrower pays the lender at closing, expressed as a percent of the loan. For example, two points mean you will pay an upfront fee equal to 2 percent of the loan. In addition, mortgages usually involve a number of *other costs and fees* which must be paid at closing.

Closing is when the loan is actually made and all the documents are signed.

The *For Questions Contact* section gives you the name, phone number, and e-mail address of someone specifically assigned by your lender to answer your questions and explain the complications of mortgage loans. Don't be shy: contact this person if you have any questions.

Finally, *do not sign this form if you do not understand it.* You are committing yourself to pay large amounts of money over years to come and pledging your house as collateral so the lender can take it if you do not pay. Ask questions until you are sure you know what your commitments really are and how they compare to your income. Until then, do not sign.

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Statement of the Shadow Financial Regulatory Committee on

Subprime Mortgage Lending Remedies and Concerns

May 7, 2007

Softening home prices are subjecting some mortgage lenders, mortgage borrowers, and holders of mortgage-backed securities to increasing stress. The stress is particularly intense for a narrow subset of subprime loans whose contracts feature teaser interest rates and/or zero or nearly zero downpayments. Subprime borrowers are characterized by a low credit score or weaknesses in documentation. Monthly payments on teaser-rate loans jump from temporarily low initial payments to much higher levels after one or two years have passed.

A small proportion of these so-called "exploding-obligation" subprime mortgages were underwritten in ways that qualified borrowers for loans that they could not be expected to handle once contract rates reset unless their incomes increased substantially or housing prices rose to create additional equity. The worst of these loans were based on inadequately tested income information supplied by overeager or fraudulent borrowers.

Subprime lending can benefit society by enabling families with low incomes or few assets to become homeowners. Originations of subprime mortgages have accounted for a rising share of total mortgages originated. In 2006 subprime loans were less than 15 percent of outstanding mortgage finance, and the share of zero-downpayment teaser-rate loans between only one and two percent.

The Shadow Financial Regulatory Committee would like to correct the perception that this narrow category of subprime lending is responsible for the turbulence in financial and housing markets that has emerged in recent months.

The housing and mortgage-lending bubbles were fueled by many factors. While defaults on teaser-rate loans have contributed to the rise in delinquency and foreclosure rates, at the current time (although partly because of widespread negotiation) the default rate on subprime mortgages is running just less than that experienced as recently as 2000-01.

Lenders that allowed borrowers to take loans with zero or tiny downpayments should not be surprised that many borrowers treat such mortgages as if they were rental contracts and are prepared to vacate their properties if monthly payments rise. Zero-downpayment borrowers effectively negotiated a below-market rent for the period they were in the home. Nonetheless, the prospect of widespread foreclosures in the future has sparked demands for federal assistance and regulatory reform.

Proposals for addressing this problem include: offering direct or indirect federal subsidies for low-interest bridge loans to delinquent borrowers; imposing federal suitability standards or restricting particular dimensions of future adjustable-rate home-mortgage contracts; establishing a new federal regulatory regime for nonbank mortgage lenders (who have originated most subprime adjustable-rate mortgages); and designing simpler and more-accurate disclosures by lenders of the risks inherent in mortgage contracts, particularly for loans offering a lesser rate.

The Committee disagrees with calls for massive federal intervention into mortgage markets. To the extent that defaults on subprime mortgages may contribute to deterioration in local housing markets, efforts to assist borrowers in those particular areas should be treated and funded locally. These are not problems that call for federal subsidies, whether appropriated by Congress or channeled less transparently through below-market refinancings of troubled loans by Fannie Mae and Freddie Mac (as these firms' managers have proposed). It also is not sensible policy for either the states (as some have already done) or the federal government to expand 100-percent, or "zero equity", mortgage loans in an effort to increase home ownership. Some zero-equity borrowers have been gambling that home prices will continue to increase, gambles that government should not encourage, especially in light of recent declines in home prices in some parts of the country.

The Committee believes that efforts to bail out parties that make bad decisions will elicit new and stronger waves of poor lending practices and unrealistic borrowing decisions in future years. Though painful adjustments are required, market solutions to mortgage financing problems are underway. If allowed to run their course, these market solutions will, on average, penalize unwise and careless lenders more severely than they will punish conscientious but delinquent borrowers.

Subprime lenders whose underwriting standards have proven inadequate are being forced to exit the industry. Insolvent entities are being dropped by their auditors and their portfolios and viable platforms for originating and servicing mortgage loans are often snapped up by other financial institutions, although at substantial discounts from book values. Marketable securities backed by poorly documented subprime mortgages are trading at similar discounts.

Industry realignment and the loss absorption it entails are healthy forms of market discipline. Putting the mortgage-lending and mortgage-backed securities industries through these disciplines is the fairest and most efficient way to insure that subprime and other mortgage lenders upgrade and rationalize their underwriting activities in the future.

The only reform that merits attention at this time is for regulators to require vastly simplified disclosures to borrowers on their applications and on all follow-up documents that clarify how much initial interest rates can increase on teaser-rate or capped adjustable-rate loans:

- by identifying the highest interest rate and corresponding monthly payment and the earliest date on which that rate and payment might apply;

- by giving a clear statement of the percentage of the borrower's monthly income that the current and the maximum possible mortgage payment might absorb;

- by including a strongly highlighted warning just above the signature line stating that borrowers should not sign the document unless they fully understand the size and time pattern of the maximum payments they might be obligated to make.

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HOUSING SCENE LEW SICHELMAN
Form simplifies rules for lending process

May 13, 2007

WASHINGTON – Sometimes it doesn't take a village.

For decades now, government and industry alike have been calling for updated and simplified rules governing the mortgage-lending process. But try as they might – and to their credit, they have tried – they have been unable to come to an agreement on anything that would modernize two key consumer-protection laws.

That would be the Real Estate Settlement Procedures Act and the Truth in Lending Act. RESPA is designed to help consumers be better shoppers in the home-buying process, while TILA requires clear disclosure of key lending terms and all costs. But they were enacted in 1974 and 1968, respectively.

That was long before the rise of mortgage brokers that originate loans but don't actually put up any money, automated underwriting that tells applicants in a matter of seconds whether they qualify for the mortgage of choice and the growth in importance of scoring models that rate the creditworthiness of would-be borrowers.

These, of course, are just three of the many changes that have brought the mortgage business into the 21st century. Yet RESPA and TILA remain essentially the same laws they have always been.

Eleven years ago, Congress asked the Federal Reserve Board and the Department of Housing and Urban Development to come up with a better mousetrap. But they couldn't agree. Instead, they turned their conflicting recommendations back to lawmakers, saying, in effect, "You decide." Congress never did.

Under Bill Clinton, HUD Secretary Andrew Cuomo picked up the gauntlet. Nothing. During George W. Bush's first term, the next HUD secretary, now Sen. Mel Martinez, R-Fla., gave it a try, too. Nada. Martinez's successor has been studying the question as well. But despite continued promises that something would be forthcoming soon, Alphonso Jackson hasn't done anything, either.

During all this, the mortgage business has been calling loud and clear for better laws. But infighting among the various players in the process – brokers, funding lenders, real-estate professionals, title companies, builders, appraisers and so on – has served only to block whatever efforts put forth to improve consumer protections.

While each sector jockeyed for position, a proposal to bundle the incomprehensible list of closing costs into a single, guaranteed price has come and gone. The idea was to save borrowers money – and prevent them from being surprised with hundreds of dollars more in fees at closing – by giving them one number they could use to compare the offerings of various lenders.

When that didn't happen, all eyes turned to the good-faith estimate of closing costs that lenders are required to supply borrowers within three days of receiving their applications. Mortgage interests said borrowers needed a document that better matched the settlement statement, known affectionately as HUD-1, that they received at closing.

Everyone who has ever taken out a mortgage knows the figure at the bottom line of the good-faith estimate is never, ever the same as the amount you make out a check for at settlement. So the plan was that, if nothing else, borrowers would pay the closing costs that lenders promised.

That concept hasn't come to pass, either. So, when the subprime-mortgage sector – the one that serves borrowers whose credit histories prevent them from qualifying for the best rate and terms – began to unravel amid cries of fraud and deception, the industry said what's needed is a simpler, easier way to inform borrowers of the pitfalls associated with the loan products they are considering. That way, the industry reasoned, consumers can't be taken advantage of.

John Robbins, chairman of the Mortgage Bankers Association, called for a one-page form that not would only list the risks and rewards of specific loans but also spell out exactly what a would-be borrower's monthly payment would be under various interest-rate scenarios. If the rate does not change, the payment would be this. But if the rate goes up, the payment would be that. And if any interest due is deferred, the payment and outstanding balance would be thus and so.

Under Robbins' leadership, the MBA formed a task force, "Project Clarity," to devise the one-pager. But guess what? It couldn't be done. While the group is "very close" to finalizing an information sheet that would detail what a consumer needs to know about a mortgage and what to ask lenders, it's no longer a single page.

It won't be specific to each borrower's mortgage, either, at least not on paper. But consumers will be able to go to MBA's Web site, www.HomeLoanLearningCenter.com, to plug in their own loan-specific information for each and any of their product choices.

The "logistics" of producing such a document was too difficult, according to MBA representative Cheryl Crispen. "We tried, but it just proved unrealistic to believe we could be transaction-specific for hundreds of thousands of loans."

Unrealistic to a committee, perhaps, but not to one person. Not if that person is Alex Pollock, a research fellow at the American Enterprise Institute, a Washington-based, nonpartisan public-policy research group.

Earlier this year, Pollock, who spent 35 years in banking, the last dozen as president of the Federal Home Loan Bank of Chicago, before joining AEI nearly three years ago, told a House subcommittee that what borrowers need is a "one-page form" that sets forth the essentials of their loan. Then he went home and designed one – all by himself.

To be honest, his form actually encompasses three pages. But the last two largely contain a glossary of key but unfamiliar terms consumers must understand to be fully informed. Page 1, however, contains the "basic facts," which are all the figures Pollock believes borrowers really need to know.

There's no laundry list of closing fees, only a single line for the total costs of the loan – points plus estimated other charges. Why? Because people don't need a breakdown, Pollock maintains.

"People need to stay on the main points and not dwell on details they find befuddling," he explains. "They need to understand how much the loan is going to cost and what the monthly payment will be."

Among the high points of Pollock's one-pager: Loan amount, loan-to-value ratio, term and maturity date, starting rate and for how long, if and when a higher rate begins, the maximum possible rate, monthly payments as a percentage of income and including taxes and insurance at the beginning and fully indexed rate, and possible prepayment fees and balloon payments.

There it is, all on a single page. Along with this admonition in forceful, boldface type: "DO NOT SIGN THIS IF YOU DON'T UNDERSTAND IT!"

Pollock, who loves the freedom AEI affords him to tackle anything he likes, says it took several days to devise the document. "It was harder than you think when you try to do something simple," he says. "But it was a lot easier for one independent agent to do than a committee of 39."

Don't we know it.

He has tested his "Basic Facts About Your Mortgage Loan" on a number of people, including his younger co-workers, people who work in his brother-in-law's tool shop and his own children. He hasn't shown it to HUD, the FTC or Congress, at least not just yet. But he says the folks at the MBA have taken a shine to it.

Only time will tell whether anything will come of Pollock's work.

▪Lew Sichelman is a nationally syndicated writer based in Washington. E-mail him at lsichelman@aol.com.

Find this article at:
http://www.signonsandiego.com/uniontrib/20070513/news_1h13sichel.html

Mr. KUCINICH. Ms. McCarty-Collins, please proceed.

STATEMENT OF MARIANNE MCCARTY-COLLINS, SENIOR VICE PRESIDENT, INSIGHT BANK

Ms. MCCARTY-COLLINS. Thank you, Chairman Kucinich, Ranking Member Issa and members of the subcommittee. Thank you for the opportunity to speak about issues that have captured the attention of this committee and the financial services industry.

I am Marianne McCarty-Collins, senior vice president for Insight Bank of Columbus and here representing the Mortgage Bankers Association. I would like to focus my remarks on the Association's views on subprime lending and the industry's efforts to mitigate the delinquency and foreclosure rates here in Cuyahoga County and across the Nation.

The Association's statistics show delinquencies and foreclosures have risen over the past 6 months, particularly in the subprime market. In response, regulators have established new standards. Investors have punished companies that made bad loans, and I'm here to answer your questions about the effect it is having on consumers.

I believe the delinquency and foreclosure data in MBA's written statement is both objective and comprehensive, and I am confident that it is the most authoritative to date because it includes 86 percent of all outstanding mortgages.

Economics aside, I want to speak as someone with 30 years of experience in mortgage lending. What I have seen of late troubles me deeply. Responsible lenders only extend credit to borrowers who are willing and able to make a mortgage payment. They do not trick borrowers into loans that are unsuitable, and they do not hold out something that is only a mirage of the American dream.

I have conducted my professional life according to these standards and have most members of the Mortgage Bankers Association, yet, bad loans were made. They were not made responsibly or with the best interest of consumers in mind.

For the most part, those making those poor loans have been punished by Wall Street and restrained by regulators.

And while we must ask what lessons we should learn from these mistakes, it is equally important for those in positions of authority to help current homeowners stay in their homes. Working together, I suggest that we must accomplish three things: Stabilize the subprime mortgage credit system, provide assistance for homeowners facing foreclosure, and, finally, prevent this from ever occurring again.

First, reaction from Wall Street has been swift. Already nearly three subprime lenders, three dozen subprime lenders have closed their doors. As we watch this, we must remind people not to confuse subprime with predatory. And we must reiterate that while subprime foreclosures are high at 4½ percent, they remain below their historic peek of nearly 10 percent. Sound perspective and approved regulatory hand will soothe investors, calm editorial writers and help consumers.

Second, the subprime borrowers who are facing foreclosure, industry and policymakers must partner to help provide options so that as many as possible are able to remain in their homes.

Further, we at MBA strongly encourage all borrowers that find themselves unable to continue making payments, to contact their lenders immediately. Lenders lose money in foreclosure and have a strong desire to make any number of arrangements that will allow a borrower to start making payments again and keep his or her home.

For those who might not be comfortable calling their lenders, MBA and many of our members have partnered with NeighborWorks America and the Home Ownership Preservation Foundation to provide free mortgage counseling via a toll-free phone number, 1–888–995-HOPE and a Web site.

Third, lawmakers, regulators and industry must work to insure that this situation does not occur in the future. Borrowers are smart. When given good information, they make good decisions, but the opposite is also true. An absence of pricing transparency coupled with a daunting and complicated closing process has permitted certain actors to prey on the unsophisticated. But, frankly, every person from the subprime to jumbo borrower is susceptible when even the CEO of Fannie Mae and the Secretary of HUD, by their own admission, cannot understand all the documents on a mortgage closing. The mortgage market is desperate for a rewrite of the Nation's settlement laws and its strong uniform lending standard to trap predators and bring them to justice.

In conclusion, MBA stands ready to work with members of this subcommittee as well as the entire Congress to accomplish these goals. Together we can insure that predatory lenders don't foreclose on the American dream. Thank you.

[The prepared statement of Ms. McCarty-Collins follows:]

MORTGAGE BANKERS ASSOCIATION
Investing in communities

Statement of Marianne McCarty-Collins

Senior Vice President, Insight Bank

Representing the Mortgage Bankers Association, Washington, D.C.

before the

Subcommittee on Domestic Policy

Oversight and Government Reform Committee

United States House of Representatives

Hearing on

"Federal Oversight of Bank Mergers and Enforcement of the Community Reinvestment Act"

May 21, 2007

Chairman Kucinich and members of the Domestic Policy Subcommittee, my name is Marianne McCarty Collins, Senior Vice President for Insight Bank and a member of the Mortgage Bankers Association's (MBA) Board of Directors.[1] I appreciate the opportunity to testify before you today as you review and consider issues related to the current state of the subprime mortgage market and foreclosures in Ohio and across the nation. These are issues that are of central concern to the MBA and, with years of mortgage banking experience, I am pleased to share industry's thoughts in these areas.

As we all are well aware, today's hearing is being held during a significant transition affecting subprime mortgage borrowers and the mortgage market. Let me start by saying that we all share the same commitment to assure that these borrowers continue to have the financing they need to buy and draw needed equity from their homes, and, most importantly, to stay in them.

We also share the same goal of developing better protections for consumers against abusive lending and foreclosures. When abusive lending happens, it is a stain on the mortgage industry just as it is a burden on our borrowers and communities. Foreclosures, likewise, are harmful and can be ruinous to both borrowers and to lenders as well. We do not and will not stand idly by while the dreams of our customers and the hard work of our industry are lost because of the excesses of a few.

In the wake of these events, we should not forget that the real estate finance industry has provided homeownership opportunities for the benefit of us all. It is the driving force in establishing communities, creating financial stability and wealth for consumers and fueling the overall economy. Our industry has helped our country reach a near 70 percent homeownership rate.

To meet these objectives, the industry has created an array of mortgage products to help borrowers get the financing they need to deal with record high house prices and to put home equity within their reach. Recently, however, because of an increase in delinquency rates, there have been claims that some of these products and financing tools are in themselves bad for consumers and have driven foreclosure rates to a state of crisis. This reaction overlooks the primary reasons for foreclosure namely employment loss, illness and other significant life events. Moreover, eliminating products will only take good financing options out of the hands of homeowners. The effect will be to undermine our mutual goal of putting Americans in homes and keeping them there.

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[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 500,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the Nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 3,000 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, Wall Street conduits, life insurance companies and others in the mortgage lending field.

We believe the problem in today's subprime market was driven by a confluence of factors. These factors included over-capacity in the mortgage market, which the capital markets have swiftly responded to by tightening their guidelines. It was also driven by a drop in home price appreciation and an increase in unemployment. As a result of these and other changing market dynamics, the concern now is whether there will be adequate liquidity for borrowers who may be seeking to become first time homebuyers or are interested in refinancing adjustable rate products going forward. MBA and its lender members are committed to working with investors, advocacy organizations and others to serve these needs.

We strongly caution policy makers against any hasty action that could harm the very borrowers that we all wish to protect. In recent days, the market has changed the contours of many products. The regulators have issued new, comprehensive guidance related to nontraditional products and a proposed statement affecting subprime hybrid ARMs that will tighten underwriting of many mortgage products. The challenge now is to assure that credit is available.

Going forward, MBA believes that in addition to assuring the availability of mortgage credit, there are three things the government can do to help protect consumers. First, make financial education a priority in this nation, empowering consumers with knowledge and giving them the tools they need to make good decisions and protect themselves. Second, simplify and make more transparent the mortgage process so that consumers may better understand the details of the transaction and facilitate shopping more efficiently from lender to lender. Third, enact a strong and balanced uniform national standard for mortgage lending with increased consumer protections.

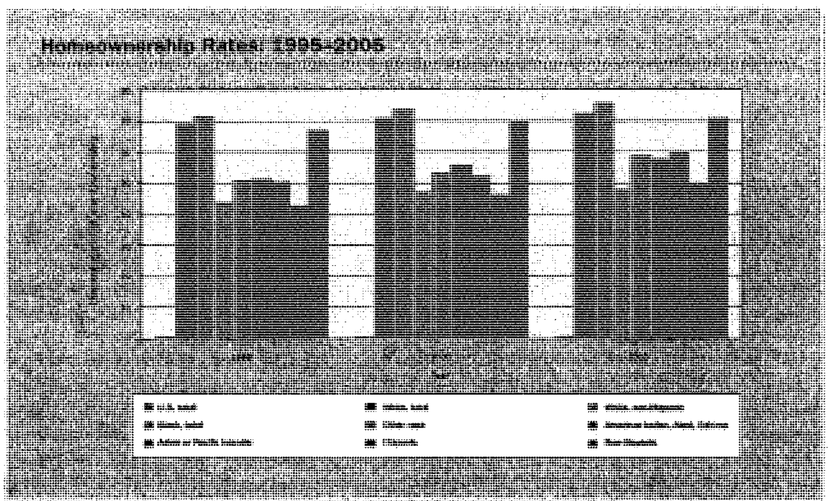
MBA respectfully asks policy makers to continue to rely on sober judgment and sound research in assessing the scope of the problem and in considering legislative approaches that will affect this key area of the nation's economy. While there have been excesses and some bad actors in our industry, there are many, many more stories of lenders who have helped borrowers achieve and maintain their homeownership dreams.

MBA has considerable data that we will continue to make available. We urge government experts to carefully review it and to resist the urge to create policy based on headlines and anecdotes. The mortgage market in general has done an outstanding job for consumers and the larger economy and any policy that is not based on sound facts has the potential to undermine these benefits going forward – particularly for those in most need of credit.

I. TODAY'S MORTGAGE MARKET

Homeownership is near its highest level in history – nearly 70 percent overall. Homeownership rates rose roughly 3.5 percentage points in the U.S. between 1989 and 2001. Looking at recent years, in 2001, the overall homeownership rate was 67.8

percent. In 2006, it was 68.9 percent. For African-Americans, the rate in 2001 was 47.7 percent, and in 2006 it grew to 48.2 percent (although it was 49.1 percent in 2004). For Hispanics, the rate in 2001 was 47.3 percent and in 2006 it was 49.5 percent.



As a result of these increases in homeownership, across all demographics, Americans are building tremendous wealth by increasing their home equity through their monthly payments and through the impressive rate of home price appreciation seen in recent years. According to the Federal Reserve Board's (FRB) Flow of Funds data, the value of residential real estate assets owned by households has increased from $10.3 trillion in 1999 to $22.6 trillion as of the fourth quarter of 2006, and aggregate homeowners' equity now exceeds $10 trillion. According to the FRB's 2004 Survey of Consumer Finances, the median net worth for homeowners was $184,000. For renters, it was $4,000.

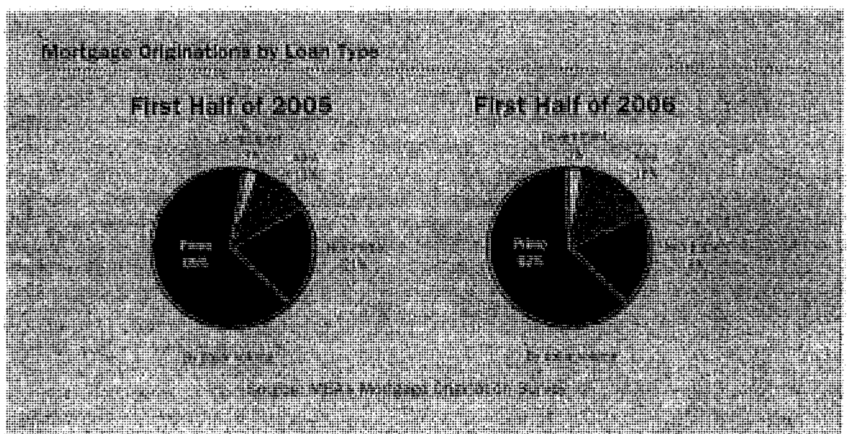
More than a third of all homeowners own their homes free and clear of any lien. Of the remaining two-thirds of homeowners who do have mortgages, three-quarters have fixed rate mortgages. Only one quarter of these borrowers, or about a sixth of all homeowners, have adjustable rate mortgages (ARMs).

Homeowning Household Distribution
By Mortgage Type

Household Mortgage Type	Percent	Percent of Those with a Mortgage
No Mortgage	34.6	
Fixed Rate	49.2	75.2
Adjustable Rate	16.2	24.8
Jumbo	3.9	6.0
Conforming	12.3	18.8
Total	100.0	100.0

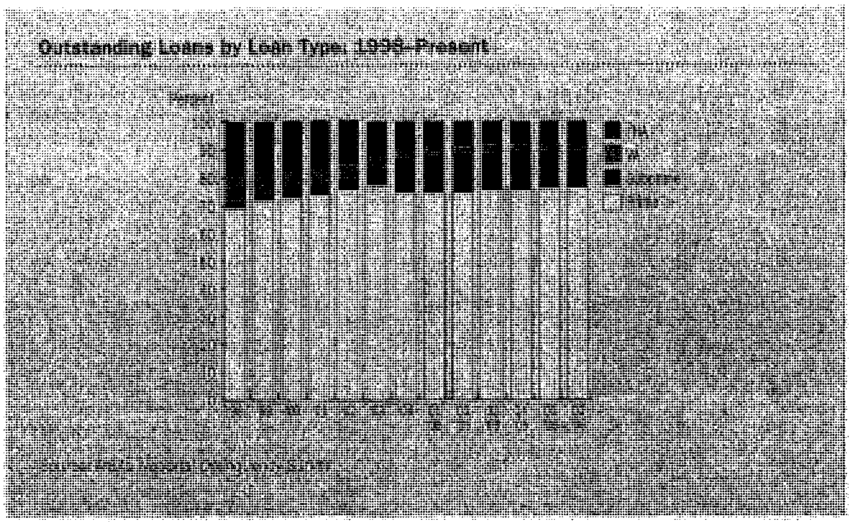
Source: American Housing Survey, Mortgage Bankers Association

According to MBA's Mortgage Originations Survey, in the first half of 2006, 62 percent of the dollar volumes of loans originated were prime loans, 16 percent were Alt. A, and 19 percent were nonprime, with government loans accounting for the remaining 3 percent.



Estimates from MBA's National Delinquency Survey (NDS) indicate that the number of nonprime loans has increased more than 6.5 times over the last five years (Q4 2001 to Q4 2006).

Based on first half 2006 data, nearly half of nonprime borrowers, or 45 percent, utilize nonprime loans to buy homes. One in four of these purchases was made by a first-time homebuyer. Also, notably, over the last several years the average difference between the interest rates of prime loans and nonprime loans has decreased markedly.



II. MORTGAGE PRODUCT INNOVATION – Creating Access and Affordability

As we have indicated, the mortgage industry takes pride in its innovations in developing mortgage products. Innovation in combination with the liquidity provided by the secondary market has dramatically expanded the opportunity for consumers to become homeowners, particularly for traditionally underserved borrowers.

Over the past several decades, as mortgage lenders have sought to adapt to changing market conditions and changing consumer preferences, mortgage products have developed beyond the 30-year, fixed-rate, amortizing mortgage. In fact, in the early 1980s, in response to prohibitively high interest rates, the ARM began to gain wide acceptance.

In addition to ARMs, some lenders at the forefront of responding to consumer demand for product diversity, particularly in high cost markets, began to offer interest-only and payment-option mortgages. Mortgage lenders have successfully offered such products for decades, through different market cycles, without threatening their safety and soundness. It is therefore prudent to look to the practices of lenders regarding nontraditional mortgage products rather than imposing overly prescriptive requirements that would force them to change proven standards, disadvantaging institutions from effectively participating in this market.

Over the last decade, hybrid ARMs, where the initial interest rate is fixed for a period of time and then adjusts annually, also have gained wide acceptance in response to consumer demand. Through these products, borrowers now can take advantage of hundreds of different financing options based on their individual needs and circumstances. They can also choose among thousands of mortgage originators. MBA supports the opportunity for consumers to make their own choices. Consumers are in the best position to choose which mortgage option is best for them and their families.

A. Nontraditional Mortgage Products

"Nontraditional mortgage products" refer to financing options which have been developed to increase flexibility and affordability and otherwise meet the needs of homebuyers who have been purchasing homes in an environment where real estate prices have increased faster than borrowers' incomes. Other homeowners have used these products to tap their homes' increased equity for a variety of needs including home improvements and renovations, paying down other forms of debt, as well as education and healthcare needs. While these products have often been characterized as "new," some of them actually predate long term fixed-rate mortgages. Nontraditional mortgage products include fixed- and adjustable-rate loans that permit interest only (IO) payments and payment-option loans including option ARMs.

MBA strongly believes that the market's success in making these "nontraditional" products available is a positive development. Although these products have been used to finance a relatively small portion of the nation's housing, they have offered and continue to offer new, useful choices for borrowers.

Notably, however, while nontraditional products have offered borrowers a variety of options, many of these products are not prevalent in the nonprime market. Payment-option loans are typically not available in the nonprime sector. In fact, according to Fitch Ratings, no nonprime loans carried a negative amortization feature in 2005. The IO share in the prime sector was 44 percent of dollar volumes, while it was 25 percent of dollar volumes in the nonprime sector. According to Standard & Poors, nonprime IO borrowers tend to have larger loans, typically indicating higher incomes, and better credit scores than nonprime borrowers who choose other products.

To be sure, as with all mortgage products, nontraditional mortgages must be underwritten by lenders in a safe and sound manner and their risks must be appropriately managed. As with other products, loan originators must provide consumers necessary information on a product's terms so a borrower can determine whether the product matches his or her needs and financial abilities.

Reports by MBA members and other data reviewed by MBA indicate that interest-only and payment-option mortgage borrowers also generally have good credit scores and relatively low loan-to-value (LTV) ratios. These products also tend to be most prevalent in higher cost areas of the country where there is a greater need for affordability products. For example, California, a particularly high cost state, has always had a high

ARM share. As the risk of a loan or its features increase, mortgage lenders take appropriate steps to offset the risk by requiring other features like higher credit scores to ensure a borrowers credit worthiness.

Interest-Only and Payment-Option Mortgages:

Interest-only and payment-option mortgages are two different products. Each is treated differently by lenders in terms of credit policy, underwriting standards and risk management.

An interest-only mortgage is commonly a loan under which a borrower is permitted to make interest-only payments for a certain period of time, after which the borrower is required to make principal payments as well. The interest rate may be fixed or adjustable during the interest-only period and may be fixed or adjustable after amortizing payments are required. Borrowers are typically allowed at their option to make principal payments during the interest-only period.

A payment-option mortgage is a loan for which a borrower typically has an option each month to make one of four payments: an amortizing payment based on a 15-year repayment schedule; an amortizing payment based on a 30-year repayment schedule; an interest-only payment; or a minimum payment based on a start rate which is below the fully-indexed accrual interest rate.

Where the minimum payment is insufficient to pay all of the interest due at the accrual interest rate, negative amortization occurs. Negative amortization means that the principal balance owed by the borrower increases. Typically, the minimum payment is fixed for 12 months, after which it adjusts annually based on the fully-indexed rate. Payment increases are usually limited to 7.5 percent in any one year. The amount of negative amortization may range from 10 to 25 percent of the original mortgage amount; if this limit is reached, the loan is recast, requiring payments that will amortize the outstanding balance over the remaining term of the mortgage.

B. ARMs and Hybrid ARMs

ARMs, including hybrid ARMs, significantly differ from interest-only and payment-option products and are not covered by the nontraditional guidance. As explained below, on March 7, 2007, the Federal financial regulators published a Proposed Statement on Subprime Mortgage Lending that, among other things, would cover hybrid ARMs.[2]

ARMs, first developed in the 1970s, permit borrowers to lower their payments if they are willing to assume the risk of interest rate changes. Hybrid ARMs, introduced in the mid-1990s, combine the benefits of fixed rate mortgages and adjustable mortgages and allow borrowers to opt for a lower initial interest rate and lower monthly payments, which are fixed for a period of two to ten years (including 2-28 ARMs and ARMs with longer fixed payment periods). After the fixed payment period ends, the hybrid ARM converts

[2] Proposed Statement on Subprime Mortgage Lending, 72 Federal Register 10533 (March 7, 2007)

to an adjustable rate mortgage with the interest rate and payments adjusting periodically (usually yearly) based on interest rate changes in the capital markets.

ARMs, including hybrid ARMs, are not simply refinancing tools; these mortgages are affordable financing and for some borrowers credit repair options that have helped millions of borrowers achieve the dream of homeownership. Hybrid ARMs offer a lower monthly payment during the fixed payment period than a fixed rate mortgage. Nearly half, or 45 percent, of nonprime loans are purchase loans, with 25 percent of nonprime purchase mortgages originated for first-time homebuyers indicating that a significant portion of the recent gains in homeownership are likely attributable to hybrid ARMs. In the first half of 2006, 67 percent of new subprime loans were ARMs.

Data available to MBA from large member companies indicate that for the 30 percent of hybrid ARM loans that borrowers refinance with their companies, 50 percent of these hybrid ARM borrowers refinance into a prime loan, half of which are fixed, half of which are ARMs. Of the remaining 50 percent of borrowers, 25 percent refinance into fixed rate subprime products and 25 percent refinance into other ARMs.

Hybrid ARMs are frequently underwritten using more flexible guidelines based on reasonable repayment expectations, allowing many more borrowers to qualify for these loans. Flexible underwriting for hybrid ARMs is appropriate. Relatively few hybrid ARMs experience any adjustment at all; hybrid ARMs are usually refinanced very early in their terms. Data from Fitch Ratings indicate that of the prime loans originated in 2003, only 44 percent remained outstanding as of the second quarter of 2006. For subprime loans originated in 2003, only 22 percent remain outstanding as of that time.

If ARMs and hybrid ARMs are required to be underwritten at the fully-indexed rate, as the guidance proposes (see below) then we must face the fact that many hybrid ARM borrowers simply will not qualify for mortgages to buy homes or to get needed credit. For many borrowers, the choice is not between an ARM and a fixed rate mortgage to finance the property they want; it is an ARM or no mortgage at all.

Hybrid ARMs are not "exploding mortgages." Payment increases are generally much smaller than alleged and by virtue of borrowers moving or refinancing, frequently never come due. The rates and payments under hybrid ARMs do not normally increase by 40-50 percent, after the option period has expired, as has been alleged. In fact, whether there are any payment increases depends on the structure of the ARM and what happens to interest rates during the fixed period of the loan. Data from lenders demonstrate that today, on average, the change between the average start rate and the average fully indexed rate under these mortgages is generally no more than 2-3 percentage points. To protect borrowers from unmanageable payment increases, lenders structure hybrid ARMs so that there is a cap on the periodic adjustment. Also, as indicated, most subprime borrowers do not remain in their mortgages for more than three years. In any event, the potential increase in payments for borrowers later in the life of a hybrid ARM pales by comparison to the initial up-front savings to these borrowers.

C. Federal and State Guidance

1. Nontraditional Guidance

On September 29, 2006, the federal financial regulators including the Board of Governors of the Federal Reserve (FRB), the Office of the Comptroller of the Currency (OCC), the Office of Thrift Supervision (OTS), the Federal Deposit Insurance Corporation (FDIC) and the National Credit Union Administration (NCUA) jointly issued Final Guidance on Nontraditional Mortgage Products (the Guidance).[3] Key aspects of the guidance are the same as the proposed guidance issued for comment by the regulators, with a few significant clarifications.

The Guidance addresses risks posed to federally regulated financial institutions by the growing use of mortgage products that allow borrowers to defer payments of principal and, sometimes, interest. The guidance specifically covers interest only (IO) and payment-option adjustable rate mortgages (Option ARMs). It specifically excludes home equity lines of credit (HELOCs) and reverse mortgages.

The guidance applies to federally regulated institutions including federally chartered banks, savings and loans and credit unions but it has a "trickle down" effect since it requires such institutions to monitor the quality of third party originations so they reflect the institutions' lending standards and compliance with laws and regulations.

The Guidance addresses three sets of concerns: (1) Loan Terms and Underwriting Standards; (2) Portfolio and Risk Management Practices; and (3) Consumer Protection Issues.

On November 14, 2006, the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) encouraged the states to adopt guidance which generally tracked the Federal Guidance and, to this end, both organizations published their template as CSBS/AARMR Guidance. This guidance is based on the Federal Guidance, and only modified or deleted those provisions dealing with risk management that were inapplicable to non-depository institutions.

In their press announcement, the organizations noted that consistent guidance "will allow the opportunity to gauge the impact on the mortgage market and consumer behavior." As of this date, 35 states and the District of Columbia have adopted or begun the process of adopting the CSBS/AARMR guidance.

Mortgage lenders have been subject to a patchwork of lending requirements, in areas other than nontraditional products, emanating from the federal, state and even local governments. These diverse standards, while well-intentioned, have lessened competition, increased regulatory costs and, thereby, increased costs to the consumer.

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[3] 71 Federal Register 58609 (October 4, 2006)
http://www.federalreserve.gov/boarddocs/press/bcreg/2006/20060929/attachment1.pdf

Restrictions that vary from locality to locality lessen the number of entrants that are willing to learn and comply with particular requirements. Increased regulatory risks and compliance costs for those who do compete translate into increased costs for consumers.

For this reason, MBA particularly appreciates the efforts of the regulators to develop guidance that is consistent among federal and state regulated institutions. Consistency of guidance better serves consumers, increases competition and lowers costs.

2. Proposed Statement on Subprime Lending

On March 7, 2007, the federal financial regulators including the Board of Governors of the Federal Reserve (FRB), the Office of the Comptroller of the Currency (OCC), the Office of Thrift Supervision (OTS), the Federal Deposit Insurance Corporation (FDIC) and the National Credit Union Administration (NCUA) jointly proposed for public comment a Statement on Subprime Lending (Statement).

The Statement addresses several items including: nonprime loans with a fixed introductory rate that expires after an initial period and then adjusts to a variable index rate plus a margin; low documentation loans; "payment shock;" product features likely to result in frequent refinancings; prepayment penalties; and loans made with inadequate information to the borrower concerning material terms and product risks including the borrower's obligations for taxes and insurance. The Statement proposes guidance for federally regulated institutions regarding risk management and underwriting, control systems, consumer protection for these loans as well as plans for supervisory review. The Statement also poses several questions for comment including whether it should be extended beyond the subprime market and the effect of its underwriting provisions on borrowers due for a reset of their loan's rate.

Notably, the Statement proposes to require that, in qualifying borrowers for nonprime ARM loans meeting the foregoing criteria, institutions should evaluate the borrower's ability to repay the debt by final maturity at the fully indexed rate. It also provides that the higher a loan's risk either from a loan's features or borrower characteristics, the more important it is to verify the borrower's income, assets and liabilities. The Statement reminds institutions of necessary consumer protections including warnings about payment shock, balloon payments, taxes and insurance and prepayment penalties.

MBA appreciates the efforts of the Regulators to provide separate guidance concerning underwriting, risk management and consumer protection issues concerning subprime short-term hybrid adjustable rate mortgage (ARM) products, subprime low documentation loans and subprime loans with prepayment penalties and other specified features. These products are not covered by the Regulators' October 4, 2006 Guidance.[4]

[4] *Interagency Guidance on Nontraditional Product Risks*, 71FR 58609 (October 4, 2006).

The actions of the Regulators in providing guidance on short-term[5] hybrid ARMs and low or no documentation loans is particularly timely and appropriate considering the very high demand for these products and recent concerns that these products may present a higher risk of default depending on economic conditions including falling real estate prices. MBA also particularly appreciates that the Regulators ask questions about the potential effects of the Statement.

The scope of and subjects covered by the Statement are of great significance to the real estate finance industry and to the consumers MBA and its members serve. While MBA believes that the subjects covered by the Statement are generally appropriate, we are concerned that the Statement, if finalized as proposed, would unduly limit credit and homeownership opportunities to credit worthy borrowers; unwisely make lenders responsible for third party mortgage brokers, increasing costs to all borrowers; and permanently add a new layer of disclosures without a comprehensive revision of the current disclosures that borrowers face and routinely ignore across the entire market.

MBA submitted a comment letter to the Regulators on May 7th, and in it expressed points that require further clarification or modification before making the Statement final. Those main points are:

1. The Statement should make clear that it does not cover subprime or prime mortgage products beyond those that it was designed to cover – subprime hybrid ARMs, subprime low documentation and other subprime loans with other identified features – to avoid an unnecessary tightening credit to subprime or even prime borrowers generally.

2. While the Statement should define "subprime" for purposes of specifying the Statement's coverage, MBA questions the use of the definition contained in the 2001 Expanded Guidance for Subprime Lending Programs[6] which, among other things, provides that a credit score below 660 is subprime.

3. While MBA supports provisions of the Statement requiring that lenders underwrite loans based on a finding of a borrower's ability to repay, the Statement should avoid adopting a rigid, one size fits all underwriting standard. The Statement should also provide exceptions and flexibility to avoid unduly restricting credit to credit worthy consumers and even risking foreclosure for some. The Statement should make clear that there are several means in addition to debt-to-income ratio to qualify borrowers, even for reduced documentation loans. In addition, any ability to repay guideline could become problematical if applied to investor-property loans. Therefore, the Statement should make clear that it only applies to owner-occupied properties.

[5] 2/28s and 3/27s.
[6] *2001 Expanded Guidance for Subprime Lending Programs*, January 31, 2001. Federally insured credit unions should refer to LCU 04-CU-13 – *Subprime Lending Activities*.

4. The Statement should make clear that reduced documentation loans are appropriate options for some borrowers as long as the risks of the loan are appropriately evaluated and the borrower is informed of any increased cost resulting from the loan.

5. The Statement should support improved disclosures by mortgage brokers, along with the other disclosures required under the Statement, to address concerns about steering rather than simply requiring lenders to redesign compensation programs. In particular, mortgage brokers should provide much better disclosures of whether or not they are the consumer's agent. Furthermore, brokers should disclose their fees to prevent steering to products that are more lucrative for the broker; Regulators also should support better licensing and bonding requirements for brokers.

6. Additionally, while MBA strongly supports the consumer protection provisions of the Statement requiring new disclosures, MBA also strongly believes that to be truly effective, disclosures and the disclosure process, including disclosures under RESPA, TILA and other laws, must be comprehensively overhauled and greatly simplified, so that the resultant disclosures are read, understood and useful to consumers, increase competition and lower consumers' costs.

7. Prepayment penalties lower subprime borrowers' mortgage interest rates and monthly payments. The Statement should allow borrowers to be given the choice of a lower rate loan with a prepayment penalty or a higher rate loan without one where one is available or may be available elsewhere. As long as there is clear disclosure, a real benefit of a lower rate, and a choice of a mortgage with and without a penalty, if available, borrowers should be permitted to opt for a prepayment penalty. However, MBA appreciates and supports the Regulators' strong encouragement that institutions that impose prepayment penalties structure them in such a way that they do not extend beyond the initial reset period and, further, provide borrowers a sufficient window of time immediately prior to the reset date to refinance without a penalty.

8. While MBA abhors predatory lending as a stain on the industry, it is important that the Statement not inadvertently eliminate good credit options.

9. The Regulators should recognize and encourage the development of products by the lending industry that lessen payment shock but, at the same time, recognize that for borrowers who understand and effectively use hybrid products, such products should remain available as financing options.

10. The Statement should address several other issues, including our responses to the Regulators' questions.

3. Underwriting Standards

The establishment of underwriting standards is ordinarily the responsibility of lenders and mortgage investors who are constantly refining credit policies in response to risk analysis, market conditions, and consumer behavior. Mortgage lenders have successfully offered nontraditional as well as hybrid ARM products using credit reports, credit scores, and sophisticated modeling to ensure that the features of nontraditional loans are mitigated with features that reduce risk. While recent information assumes that some lenders and investors have developed products that have resulted in unsatisfactory delinquency levels, it is far too early to fully assess the extent of this problem. It is clear though that the capital markets have responded through changing the guidelines and underwriting standards of the products in which they will invest. Current credit options have become much more conservative.

While MBA and its members agree that borrowers should not be underwritten at teaser rates that are substantially below the fully-indexed accrual rate and are in effect for just the first few months of the mortgage, MBA has not favored the establishment of rigid, overly broad, underwriting standards that require analysis of borrowers' ability to repay the debt by final maturity at the fully indexed rate, assuming a fully amortizing repayment schedule. We have commented that such an approach is far too prescriptive and forces lenders to apply credit policies that disadvantage products in a manner which is inconsistent with their risks.

The nontraditional guidance expects that interest-only and payment option mortgages be underwritten to the fully indexed rate, a result that will limit the availability of these products. The extension of this requirement to hybrid ARMs will have a similar effect. Moreover, under an approach requiring underwriting to the fully indexed rate, a 10/1 hybrid ARM with a 20-year amortization starting in year eleven would be disadvantaged against a 3/1 hybrid ARM with a 27-year amortization starting in year four despite the fact that most lenders would consider the 10/1 hybrid ARM a lower risk product.

Key risk factors of a hybrid mortgage include the initial length of time during which the interest rate is fixed, where an interest-only payment is required or the fact that the loan does not amortize. An overly broad standard may require lenders to invert this risk analysis and treat loans with a longer fixed rate or payment timeframe as higher risk than those with shorter timeframes.

MBA would caution that if the policy decision is to require underwriting of hybrid ARMs to the fully indexed rate going forward, any such policy must be flexible enough to ensure that all borrowers facing a reset will have access to credit to refinance. To that end, MBA is committed to consultations with Wall Street, the government sponsored enterprises and advocacy organizations to assure that credit is available. We cannot allow the current tightening of credit to strangle borrowers who, previously, could easily refinance.

4. Portfolio and Risk Management Practices

MBA and its' members share the view embodied in the guidance that lenders should pay particular attention to those products in their portfolios that carry higher risks and change credit policies and risk management practices when performance problems arise or risk analysis indicates there might be a problem.

There is also agreement with the requirement that mortgage lenders should have appropriate controls in place for the types of mortgage products they originate. Lending institutions work internally and with their regulators to ensure that their loan loss reserves are adequate given the risks in their portfolios.

5. Borrower Information Concerning Nontraditional Products

MBA and its members strongly believe that the features of mortgage products offered to consumers should be fairly represented so that consumers can decide for themselves which product makes the most sense given their personal financial position. Many consumers understand the array of products and have used them appropriately to their advantage.

Because there is no single, uniform, mandated disclosure for nontraditional products, lenders have developed their own disclosures to inform borrowers about the characteristics of these products. Many mortgage lenders have been originating these products for a considerable amount of time and have significant experience with them. This experience has informed the development of disclosures.

Lenders also provide borrowers the range of information and disclosures mandated under the Real Estate Settlement Procedures Act (RESPA) and the Truth in Lending Act (TILA), including the Consumer Handbook on Adjustable-Rate Mortgages (CHARM) booklet.

MBA has reviewed the disclosures developed by several MBA members who originate significant volumes of nontraditional mortgages and have found them to be quite detailed and comprehensive in providing consumers the information they need to fully understand the mortgage product they are considering.

Mortgage lenders that successfully offer these products constantly review the performance of these loans. They make changes as warranted to credit policies and other practices, including disclosures, to improve performance and to facilitate customer understanding.

MBA and its members are working on what we think is a groundbreaking, new effort called Project Clarity. This effort will establish simple, plain English documents to be provided to all borrowers at the earliest possible time when they are shopping for a mortgage. First, we developed them, and now at the expense of the industry, we have been testing them around the country in focus groups. The draft disclosures are still under review and testing and we anticipate having them out this summer. We want these important documents to help our customers as quickly as possible.

MBA appreciates the efforts of the federal regulators to issue Proposed Illustrations of Consumer Information on Nontraditional Products published contemporaneously with the federal nontraditional product guidance and we strongly urge the regulators to use the existing authorities under TILA to improve disclosures for nontraditional products nationwide.

The regulators determined that new information as set forth in the Proposed Illustrations could not await a more comprehensive approach to disclosure as suggested by MBA in its comments on the Guidance. The regulators concluded that guidance was needed now, to ensure that consumers get the information they need about nontraditional products. There is a similar point of view respecting the products covered by the Statement. While MBA supports provision of all necessary information, we urge the regulators to regard the new disclosure illustrations as a temporary approach. MBA recommends that the regulators direct their energies toward a much more comprehensive approach of improving the mortgage disclosure process for consumers and require the provision of these disclosures from all mortgage lenders.

Consumers today confront a pile of disclosures when they apply for and close on a mortgage. Sadly, every new layer of disclosure simply increases the likelihood that the consumer will merely initial all of them without even a cursory reading. For this reason, the number of disclosures need not increase, rather, they need to be combined, streamlined and made much more user friendly.

Efforts at improvement should include all disclosures required by federal law. Because RESPA and TILA apply to regulated and unregulated entities, such an approach is the best means of assuring that virtually all consumers receive high quality information and that a level playing field of disclosure requirements is established for all industry originators. These efforts should also consider the plethora of state disclosures.

MBA strongly believes that sound underwriting, risk management and consumer information are essential to the public interest. We also believe it is essential that the legislative and regulatory environment foster innovation in the industry to assure that borrowers confront a competitive marketplace offering low cost credit options. Such an environment allows lenders to provide borrowers the widest array of options to purchase, maintain and, as needed, draw equity from their homes to meet the demands of their lives.

III. THE PRIMARY REASON FOR DEFAULTS ARE EMPLOYMENT, FAMILY AND ECONOMIC DIFFICULTIES – NOT PRODUCT CHOICES

There is no evidence that product choices by borrowers are determinative of defaults or foreclosures. Different products have different default rates but the product choice does not cause the default. Data consistently demonstrate that delinquencies among all borrowers are a function of a variety of factors including, first and foremost, economic difficulties caused by job losses. According to Freddie Mac, based on a sample of loans in Workout Prospector® from 1999 to 2005, the following sets out the reasons for delinquency:

Reasons for Delinquency

Variations in delinquencies from state-to-state reflect differences in the level of unemployment:

Unemployment or curtailment of Income	41.5%
Illness or Death in Family	22.8%
Excessive Obligation	10.4%
Marital Difficulties	8.4%
Extreme Hardship	3.3%
Property Problem or Casualty Loss	2.1%
Inability to sell or rent property	1.6%
Employment Transfer or Military Service	0.9%
All Other Reasons	9.0%

The impact of employment on loan performance is illustrated in a comparison between Arizona and Michigan for the fourth quarter of 2006. The foreclosure inventory rate for subprime hybrid ARMs in Michigan was 11.39 percent and in Arizona it was1.66 percent during this period. At the same time, unemployment rates in Michigan were 7.2 percent and 4.15 percent in Arizona. The increased unemployment rate corresponds to the increased foreclosure rate in Michigan and the converse is true in Arizona.

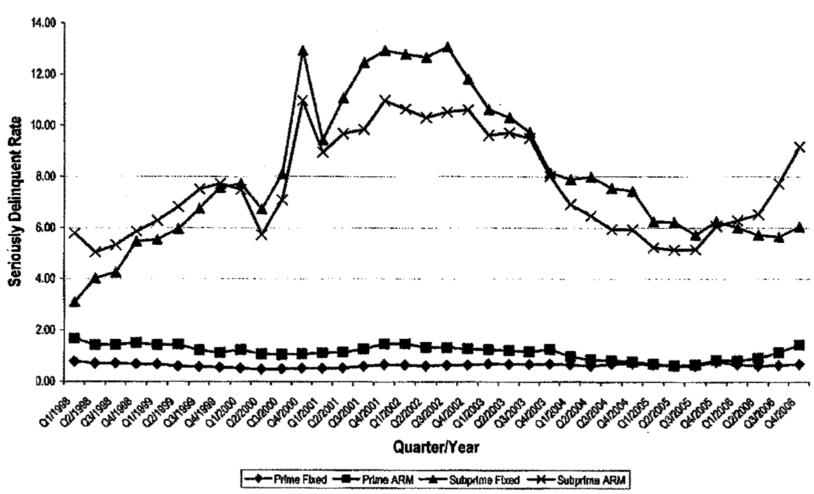
The chart below sets out a comparison of the top five states that have the highest and lowest delinquencies across all loan categories including subprime ARM, subprime fixed, FHA, prime ARM and prime fixed. The same three states – Ohio, Michigan, and Indiana – make the top five states with the highest delinquencies all in five categories. It also happens that these three states have significant unemployment problems. It can not be denied that there is a causal relationship between employment and homeowners' ability to make their mortgage payments.

Subprime ARM		Subprime Fixed		FHA		Prime ARM		Prime Fixed	
Highest Five:									
Ohio	19.03	Ohio	13.05	Michigan	10.70	Ohio	3.89	Ohio	1.95
Michigan	17.70	Indiana	10.68	Ohio	9.43	Oklahoma	3.82	Indiana	1.76
Indiana	16.70	Michigan	10.60	Indiana	8.06	Indiana	3.74	Michigan	1.29
Iowa	15.21	South Carolina	9.17	South Carolina	7.73	Michigan	3.63	South Carolina	1.25
Kentucky	13.08	Pennsylvania	9.09	Georgia	7.51	Iowa	2.79	Kentucky	1.20
US Total	**9.16**		**6.04**		**5.78**		**1.45**		**0.69**
California	**5.67**		**2.48**		**2.05**		**0.87**		**0.17**
Lowest Five:									
Hawaii	4.74	Oregon	2.22	Idaho	2.15	Washington	0.59	Wyoming	0.21
Washington	4.49	Arizona	2.10	California	2.05	Oregon	0.57	Montana	0.19
Utah	4.08	Wyoming	2.10	Montana	1.85	Arizona	0.53	California	0.17
Oregon	3.78	Hawaii	1.91	Wyoming	1.52	Idaho	0.53	Hawaii	0.13
Arizona	3.08	Alaska	1.17	Alaska	1.37	Hawaii	0.49	North Dakota	0.11

Seriously Delinquent loans defined as 3 or more payments late plus loans in foreclosure
Excludes Louisiana and Mississippi

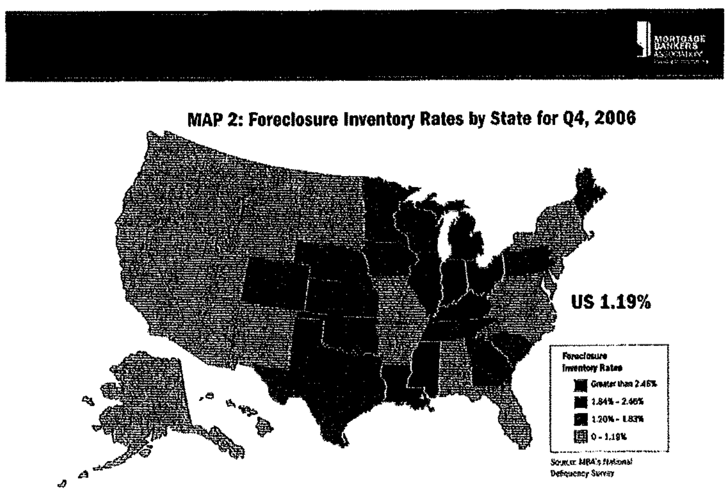
While overall delinquencies rose in the fourth quarter of 2006, assertions that delinquency rates are at crisis levels and a greater percentage of borrowers are losing their homes are not supported by data. In fact, delinquency and foreclosure rates have remained relatively low with increases over the last year. The chart below traces delinquencies from 1998 through the fourth quarter of 2006. It reveals the fact that delinquencies were higher in the subprime market at the end of 2000 as well as during 2002 than they were in the fourth quarter of 2006.

Chart 8. Seriously Delinquent Rate by ARM & Fixed



The delinquency rate for mortgage loans on one-to-four unit residential properties stood at 4.95 percent of all loans outstanding in the fourth quarter of 2006 on a seasonally adjusted basis, up 28 basis points from the third quarter, and up 25 basis points from one year ago, according to MBA's National Delinquency Survey (NDS). All ARM loans had higher delinquency rates as compared to the third quarter of 2006. Delinquency rates for the fourth quarter increased 33 basis points for prime ARM loans (from 3.06 percent to 3.39 percent) and increased 122 basis points for subprime ARMs (from 13.22 percent to 14.44 percent). The delinquency rate for prime fixed loans increased 17 basis points (from 2.10 to 2.27 percent), while the rate increased 50 basis points for subprime fixed rate loans (from 9.59 percent to 10.09 percent).[7]

MBA's fourth quarter 2006 NDS found that the percentage of loans in the foreclosure process was 1.19 percent, an increase of 14 basis points from the third quarter of 2006, while the seasonally adjusted rate of loans entering the foreclosure process was 0.54 percent, eight basis points higher than the previous quarter. The foreclosure inventory rate for subprime loans in the fourth quarter of 2006 was 4.53 percent, up from 3.86 percent in the third quarter. The foreclosure inventory rate for prime ARMs went from 0.70 percent in the third quarter up to 0.92 percent in the fourth quarter; for nonprime ARMs from 4.68 percent to 5.62 percent. The foreclosure inventory rate increased for subprime fixed rate mortgage loans from 3.00 percent to 3.19 percent.



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[7] These figures are based on MBA data. MBA defines "delinquency" as having one or more payments overdue. The loans in foreclosure are approximately a third of these numbers and the borrowers actually losing their homes are approximately a fourth of that group.

In its most recent data, MBA is seeing increases in delinquencies and foreclosures for nonprime loans, particularly nonprime ARMs. Because of technology induced cost reduction and efficiency gains by the industry as well as the appetites of borrowers for credit, the share of outstanding loans that are nonprime has been increasing for the last several years. The higher average delinquency and foreclosure rates among these loans mean the overall statistics for total outstanding mortgages are unlikely to fall as low as in the past.

It is important to note that nonprime loans have always had higher delinquency and foreclosure rates and lenders factor in these risks when lending to nonprime borrowers. Given the fact that nonprime borrowers have weaker credit profiles, this is not surprising. Foreclosures also can be accelerated by slow housing markets that limit borrowers' ability to quickly sell in order to cover their losses. MBA data has indicated that over the last several quarters a number of factors, including the aging of the portfolio, increasing short-term interest rates and high energy prices, have been putting upward pressure on delinquency rates.

Nevertheless, for each borrower whose loan goes into default and is foreclosed, the experience is a traumatic one, and it is not surprising that legal counsel for such borrowers would assert every claim available to permit their clients to hold onto their homes. However, policymakers need to understand that keeping the homeowner in their home paying on their mortgage is the best outcome for both the lender and the borrower.

Troubles in Cuyahoga County

The foreclosure trends in Ohio, and specifically Cuyahoga County, are quite troubling. The reasons for these trends include a decline in the number of jobs in the county and a weakened housing market that in MBA's experiences, are in line with traditional causes of foreclosures.

From 2005 to 2006, Ohio saw a 16 percent increase in the number of new foreclosures, according to MBA's National Delinquency Survey. Cuyahoga County saw nearly 13,000 new foreclosure filings in 2006, which is an increase of about 15 percent from 2005.

An August 2005 report by the county commissioners', Commissioners Report and Recommendations on Foreclosures, states the causes as a "loss of stable, living wage jobs" and "fraudulent lending practices by unscrupulous and unregulated brokers." Although there are certainly rogue brokers around the country, it is unlikely that predatory lending practices, which are illegal, are the primary reason for the area's significant increase in foreclosures and delinquencies. There are clear indications that Cuyahoga County is facing economic instability.

A January 2006 report, the Northeast Ohio Employment and Wage Trends: Economic Brief, which is produced by the Center for Economic Development at Cleveland State University's Maxine Goodman Levin College of Urban Affairs, indicated that Cuyahoga County, which accounts for 40 percent of Northeast Ohio employment, saw a decrease of 2 percent in total employment (-14,908 jobs). While Cuyahoga saw this decline from the first quarter of 2003 through the same period in 2005, the surrounding counties all showed an increase in total employment in the same two-year period; Lorain County 0.7 percent, Medina County 5.4 percent, Summit County 3.4 percent, Portage County 4.0 percent, Geauga County 6.7 percent, and Lake County at 3.0 percent. It is a reasonable to conclude that these jobs losses are a key factor for the increased number of foreclosures.

The Council for Economic Opportunities in Greater Cleveland, a private non-profit organization, which serves low-income people in Greater Cleveland and Cuyahoga County, released a report, The State of Poverty in Ohio 2005. The report states that Cuyahoga County lost 71,375 jobs from 2000-2004 or 8.8 percent of its total employment. To put this in perspective, the report says, "one out of every eleven Cuyahoga jobs vanished." Many of these job losses have been in manufacturing, which has affected the suburban areas of Cleveland. In addition, the Council's report says the "Cleveland has the *highest* current poverty rate among all United States cities."

IV. FORECLOSURE PREVENTION AND SERVICING PRACTICES

Mortgage servicers want to preserve homeownership and, in fact, have economic incentives to get borrowers back on their feet as quickly as possible and avoid foreclosure. Delinquencies and foreclosures are costly both from a hard and soft dollar perspective. Significant staff must be dedicated to handling delinquencies and foreclosures. Servicers also must advance principal and interest payments to investors and pay taxes and insurance premiums even though such payments are not received from the borrower. If the loan becomes seriously delinquent, servicers must hire foreclosure attorneys and pay for property preservation. All these costs can be a significant drain on capital. In the event of foreclosure, noteholders take significant losses on the loans. A 2003 Federal Reserve study notes that "estimated losses on foreclosures range from 30 percent to 60 percent of the outstanding loan balance because of legal fees, foregone interest, and property expenses." [8] From a pure economic basis alone servicers do not desire foreclosures.

It is important to note that servicer profits derive from receiving the servicing fee for administering the loans. Although the servicing fee is small, usually amounting to one fourth of one percent of the loan balance, when a loan is delinquent, that fee is not earned. When a loan is extinguished through foreclosure, the servicing asset represented on the balance sheet is also extinguished. Large numbers of foreclosures are detrimental to a servicer's earnings and net worth. Thus, long-standing claims that lenders knowingly put borrowers into products they cannot afford in order to take the property through foreclosure are simply unfounded.

[8] Foreclosing on Opportunity: State Laws and Mortgage Credit, Karen M. Pence, Board of Governors of the Federal Reserve System, May 13, 2003.

In reality, everyone loses in a foreclosure – the borrower, the local community, the mortgage insurer, investors and the servicer. Lenders and servicers do not have incentives to cause foreclosures, because profitability rests in keeping loans current and, as such, the interests of borrowers and lenders are aligned.

A. Loss Mitigation Tools

Recognizing the significant downside to foreclosures and with a strong desire to assist their borrowers, servicers have, over the last 15 years, made deliberate and significant strides to provide workout alternatives to foreclosure. These alternatives include both home retention options, such as forbearance, repayment plans and modifications, and home relinquishment options when the borrower can no longer support the debt. Of course, servicers strive to provide home retention solutions whenever possible. The following is a brief overview of the home retention options used by servicers. The availability of these options is dependent on investor agreement.

- **Forbearance Plans:** These plans provide postponements in payments with a typical duration of six months, followed by repayment of the arrearage over time. The plans can be verbal or written.

- **Delinquent Refinances:** Although less common, borrowers that are less than three months behind may be able to refinance to lower rates and capitalize the arrearage.

- **Subordination of Unpaid Debts:** Servicers in some cases can also place the arrearages into a junior lien in order to bring the loan current. The borrower is required to pay both debts, similar to a repayment plan, but this option makes such payments more affordable because the balance owed is amortized over a longer period of time.

- **Temporary Modifications:** These modifications allow for a temporary reduction in interest rate or payments for a period of time, usually lasting about six months.

- **Permanent Loan Modifications:** These modifications result in permanent changes to one or more of the original loan terms, such as the interest rate and/or duration of the loan. A permanent modification is a very effective work out vehicle, because it provides an immediate resolution to the delinquency by taking the amount of arrearage and adding it to the balance of the modified loan (e.g. "capitalize the arrearage") and re-amortizing the payments. The duration of the loan can also be extended to reduce monthly payments. While this option gives the borrower and loan servicer additional choices, its availability is limited for those mortgages that have been purchased by investors in the form of mortgage-backed securities. Because the MBS are held in trust, rules restrict servicers and trustees from altering the assets.

> Two-thirds of all mortgage loans are placed in trusts to create mortgage-backed securities and then the MBS are sold to investors. Trust documents dictate what the servicer is permitted to do in the way of loss mitigation. In many cases the servicer is prohibited from modifying the loan. In other documents the servicer is permitted to follow standard industry practices—a very vague standard that could create liability for the servicer if there is a subsequent challenge from some investor group. Subprime and other private label servicers have had moderate success in amending the investor documents, but such changes require the approval of all investors. There can be many investors in an MBS trust and locating the beneficial owner investor can be difficult or impossible. Under some circumstances, the MBS trustee has to seek a legal opinion that modification of delinquent loans will not affect the securities' REMIC tax status. This is costly and there is a risk that the IRS will have a different opinion and terminate the REMIC. Such a result would be financially catastrophic for the MBS investors because the loss of REMIC status results in taxation of the trust as a corporation and not as a pass-through entity. This means that the income from the MBS would be taxed at both the trust entity level and the investor level, rather than just at the investor level.

Non-home retention loss mitigation alternatives are useful when borrowers have no viable means to cure their financial situation. These options offer several benefits that should not be discounted. First, they avoid foreclosure which can severely impact the borrower's credit. Second, the servicer generally does not seek repayment of the deficiency, which is the difference between the value received for the property and the amount of the debt owed. Third, borrowers are often assisted with moving expenses. These options are most often used when home prices decline below the amount of outstanding debt:

- **Pre-Foreclosure Sales (PFS) or Short Sales:** Proceeds from a third party sale of the borrower's home are accepted as satisfaction for the mortgage, even though they represent less than the amount owed.

- **Deeds-in-Lieu of Foreclosure (DIL):** The borrower voluntarily deeds the property to the servicer as satisfaction for the mortgage even though the value of the property is less than the amount owed.

B. Servicer Practices

Before borrowers ever reach the point of being seriously delinquent, servicers attempt to cure the delinquency. Experience has shown that early intervention is the key to curing delinquencies. As a result, servicers make significant attempts to contact borrowers early in the delinquency or even before a delinquency occurs. In fact, prime lenders have adopted some techniques from subprime lenders that have proven effective, including: providing welcome calls to new customers ensuring that they have important contact information; initiating reminder calls prior to the expiration of the grace period for at-risk borrowers; using automation to determine when a borrower's failure to make a payment is outside of their normal pay-behavior; and prioritizing out-bound assistance calls to the highest risk delinquent borrowers first. This allows servicing staff to focus their resources where they are most needed. These techniques have proven to be beneficial for consumers. In addition to personal contact, servicers send numerous notices to borrowers informing them of their delinquency, offering loss mitigation and providing helpful information on how to avoid foreclosure. Property preservation personnel in some cases also leave discrete information at the property address.[9]

Some servicers are also using telecommunication tools to streamline contact with delinquent borrowers. Through automation, the delinquency status of in-bound callers can be determined very quickly and calls routed automatically to workout staff thus by-passing the company's standard customer service line. The process is seamless to the consumer and avoids wait times. Other companies provide dedicated toll-free numbers that go directly to the loss mitigation teams trained to address more complex borrower needs.

Servicers have also developed Web sites that allow borrowers to access loss mitigation information, obtain and submit required documents and in some cases apply for online.

Unfortunately, despite all this technology and effort, over half of borrowers in foreclosure proceedings have had no contact with their servicer.[10] This lack of contact is one of the biggest challenges servicers face in trying to cure delinquencies.

One situation that MBA believes contributes to this low contact rate is a provision in the Fair Debt Collection Practices Act (FDCPA). Under FDCPA, a lender who purchases servicing on a delinquent loan is required to announce itself as a "debt collector" prior to discussions with that customer. A servicer who purchases current servicing that subsequently becomes delinquent, however, is not required to make this announcement. This so-called "mini Miranda warning" effectively drives borrowers away by creating a misleading and conflicting message with loss mitigation efforts (especially when servicers request financial information from the borrower for purposes of structuring the loss mitigation plan). Servicers that purchase delinquent servicing should be treated like other servicers and not have to provide this statement.

[9] The following are the notices/solicitations typically provided by servicers: a payment reminder that payment is past due (from 2-16th) (this is typically for high risk borrowers); late charge notice notifying the customer that payment is past due and late charge has been assessed; monthly account statement reflecting either the current and/or total amount past due; notice of availability of counseling and state/local payment assistance programs at 45 days (Federal Law); mail "How to Save Your Home" pamphlet at 60 days (Federal Law for FHA loans); mail internally created documents on how to save the home for non-FHA loans; separate letters soliciting for loss mitigation; multiple calls each month to solicit alternative collection/loss mitigation. Additional notifications are sent pursuant to state statutory requirements or preconditions to foreclosure including the breach (or demand letter); letter announcing acceleration of the debt; service of process notices, and foreclosure sale date.

[10] Foreclosure Avoidance Research, Freddie Mac, 2005.

Even with these obstacles, servicers are not just throwing in the towel. They are proactive in exploring new options that bring borrowers to the table -- ways that create approachable environments for borrowers who might be embarrassed or not trusting of the lender. This includes teaming up with non-profit and for-profit agencies to assist in *locating* borrowers and providing homeownership counseling.

Counselors work with borrowers and their servicers to achieve and execute loss mitigation arrangements. The hope is that homeowners who are hesitant to call their servicers will be more likely to contact a non-profit organization or other reputable intermediary to discuss alternatives.

Recognizing the value of third-party groups in helping connect borrowers with servicers and work out problems, MBA has partnered with NeighborWorks America, the Homeownership Preservation Foundation and the Ad Council in a campaign to prevent foreclosure that includes free mortgage counseling. Borrowers seeking assistance should call 1-888-995-HOPE or visit http://www.995hope.org/. Through this service, counselors are currently receiving 650 calls a day. About half of those callers enter into counseling sessions and 42 percent of those result in positive final outcomes, avoiding foreclosure.

MBA also makes valuable information available to borrowers in every stage and status of the mortgage process, including delinquency, on the Home Loan Learning Center Web site at http://www.homeloanlearningcenter.com/.

The paradigm has shifted from a decade ago. Borrowers need to know that lenders can help. A direct call to the lender or to a reputable housing counselor can save a borrower's home. We hope to convey that message whenever possible.

V. THE IMPOSITION OF A SUITABILITY STANDARD WOULD HURT THOSE IT IS MEANT TO HELP

As indicated, the data does not show that unsuitable products or predatory lending are the cause of delinquencies and foreclosures. The foreclosure problem is based on economic difficulties that confront borrowers.

Notwithstanding, a number of advocacy organizations have urged that a "suitability standard" be imposed on mortgage lenders as a means of making the lender responsible for assuring the borrower is in the right loan to prevent foreclosure later. These organizations assert that a "suitability standard" applies to securities brokers and that there is no reason why a similar standard should not be imposed on mortgage lenders. MBA disagrees.

While a specific proposal for a "suitability standard" for the mortgage industry is not yet fully formed, a variety of approaches have been suggested. Most would simultaneously require more rigid, prescribed underwriting standards, a duty of fair dealing at the inception of the loan, a subjective evaluation by the lender whether a product is best suited for that borrower, the establishment of a fiduciary obligation by the lender to the borrower and a private right of action to redress any violations. Some suggest that a regulator be empowered to specify the parameters of the requirement. While many of these points might sound good at first, on closer examination of the facts, they each raise very significant concerns for consumers.

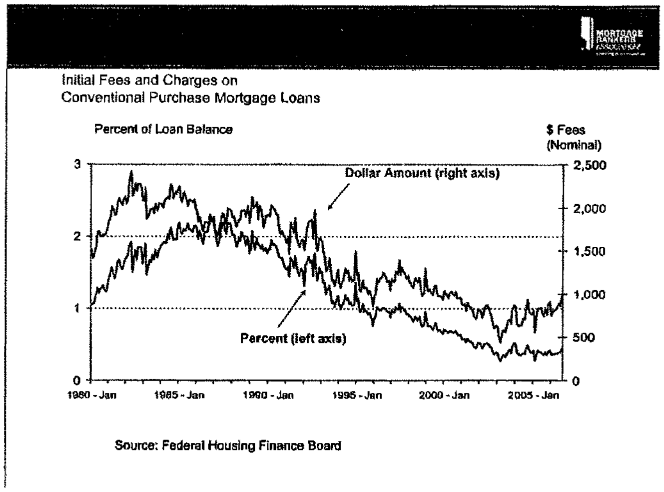
Earlier this year, MBA published a paper that explains why the imposition of a "suitability standard" on the mortgage lending industry risks unintended, negative consequences for consumers that would turn back the clock on hard won fair lending and homeownership gains. Congress should resist pressure to enact a suitability standard for the mortgage lending industry and, instead, should turn its attention to the creation of a uniform national lending standard. A uniform national standard would be the best approach to addressing the current mortgage market challenges.

A. Rigid Hard Wired Underwriting Standards Deny Credit Options to Borrowers

The most recent data provided by the mortgage lending industry under the Home Mortgage Disclosure Act (HMDA), on loans made in 2004 and 2005, demonstrate the greatest and widest availability of mortgage finance in our nation's history, which in turn has made possible record homeownership rates. The data show that borrowers in virtually every area of the nation, of every race and ethnicity, and at every income level receive an unparalleled array of credit opportunities.

It is important to remember how we got to this point. The confluence of several factors has contributed to the growth in credit opportunities for prime and nonprime borrowers over the last 15 years. These factors include increased competition from an unparalleled number of loan originators including mortgage companies, banks, credit unions and mortgage brokers. They also include innovations in the mortgage market, resulting in the range of mortgage products available today including fixed-rate products and adjustable rate products as well as "nontraditional."

Most importantly, the past 15 years has been marked by dramatic changes in the mortgage origination process made possible by technology. Computerization has enabled a much greater understanding of default risk and the development of objective underwriting criteria. It has also permitted the embodiment of these criteria in automated underwriting tools and the growth of risk-based pricing. As shown in the chart below, according to the Federal Housing Finance Board's data from their Monthly Interest Rate Survey, the costs of originating a mortgage have declined tremendously both measured as a percentage of the loan balance and in nominal dollars.



Risk-based pricing, in turn, has permitted the development of a market to serve the needs of nonprime borrowers "who have difficulty in meeting the underwriting criteria of 'prime' lenders because of blemished credit histories or other aspects of their profile."[11]

Rigid new underwriting standards, no matter how well intentioned – even as seemingly innocuous as requiring a particular debt-to-income ratio, for example – will result in denying some borrowers' credit who would otherwise qualify in today's market. Some of these borrowers will even be denied homeownership although they would qualify today. The magic of today's market is that the widest range of borrowers can get the widest spectrum of loans.

Similarly, while it might sound reasonable to require that all borrowers contending for a hybrid adjustable rate mortgage (ARM) that allow lower fixed payments for an initial period and higher payments after that be qualified at the fully indexed rate, such an approach will lock some borrowers out of the home of their dreams and deprive them of lower payments. It would also have the consequence of failing to allow these borrowers an opportunity to repair their credit so they can refinance into a lower priced prime loan before the rate adjusts. Moreover, ARMs allow borrowers to allocate more of their cash flow to other uses. For example, a borrower who saves on their mortgage payment can put more funds towards financial investments, potentially diversifying their overall portfolio.

[11] Remarks by Governor Edward M. Gramlich at the Federal Reserve Bank of Philadelphia, Community and Consumer Affairs Department Conference on Predatory Lending, Philadelphia, Pennsylvania (December 6, 2000).

Some insist that a borrower who can not meet fixed ratios should be denied credit if they don't satisfy a particular test. Such a result is unnecessary in today's financing world. Also, respectfully, MBA wonders if that opportunity should be withheld from 87 percent of borrowers, including those who qualified for nonprime loans who are making their payments and achieving the dream of homeownership.

Today, borrowers at nearly all points on the credit spectrum qualify for loans. The imposition of new rigid standards would change that.

B. The Imposition of a Suitability Standard Risks Unintended Consequences

While certainly not intended to promote or authorize discrimination or reignite redlining, MBA is extremely concerned that the injection of subjective standards into the mortgage process would conflict with and potentially threaten fair lending, community reinvestment and homeownership gains particularly for first time homeowners and minorities.

The reason this would happen is not because anyone has bad motives but because new subjectivity would be injected into the market, the risks would increase markedly, driving many lenders to be much more cautious or even to withdraw from the market. Lessened competition and increased risks will decrease financing options and increase costs.

Since the 1990's, the denial rates of African-American loan applicants, though still greater than white borrowers, have declined considerably. In 1992, the denial rate for conventional home purchase loans for African-American borrowers was 36 percent and in 2004 it was 24.7 percent. While there has been some increase in the institutions covered by HMDA over these years, the number of applications nearly quadrupled over this period.[12]

Although all homeownership has increased since the 1990s, the percentage increase in African-American homeownership has been greater than among whites and the national average. The African-American homeownership rate has increased almost six percentage points since 1994, while the overall rate has increased nearly five percentage points. If a subjective suitability standard is imposed, in the first instance, lenders will be required to assure that a loan is suited for the borrower. If such a standard is imposed, a lender facing a mortgage applicant who is a member of a protected class, and for whom a loan product may be "unsuitable," might deny the borrower credit options to conform to the suitability requirement and, at the same time, violate the letter and spirit of fair lending and community investment requirements. Conversely, if credit is extended, the lender risks violating a suitability requirement.

Either way, by injecting ***subjective*** standards into the process, there will be much greater caution by lenders and less competition in the market as lenders shy away from

[12] 1992 and 2004 HMDA data.

these risks. There is real concern that subjectivity and even caution will disproportionately affect first-time homeowners, minorities and those with less wealth where suitability and fair lending concerns intersect.

Even if the facts suggest that a lender is in compliance with both fair lending rules and a suitability requirement, borrowers who go into default are likely to claim that the loan was "unsuitable." This new cause of action will also drive lenders out of markets, lessening the availability of credit and driving up costs for consumers. It would seem that only the lawyers will benefit.

Although as indicated, advocacy organizations point to the securities industry as a model for a suitability standard, on examination, the industries are not analogous. Their business models differ and so do the policy imperatives that govern them.

While federal policy has been to encourage mortgage lenders to make credit available to as many borrowers as possible, by contrast those responsible for regulation of the securities industry have not made expansion of investment opportunities to underserved persons or neighborhoods a major policy initiative. The consequence of the suitability requirement for a securities firm is that overly cautious broker-dealers will lose out on commissions. The consequence of a suitability requirement for mortgage lenders is that overly cautious lenders may violate the letter of federal anti-discrimination laws and the spirit of community reinvestment laws.

As far as their business models are concerned, securities broker-dealers function as intermediaries between their customer and the market to invest their customers' money; broker-dealers hold themselves out as investment consultants. Mortgage lenders, on the other hand, represent their companies and investors whose money they put at risk to make loans to borrowers; they do not function as agents or fiduciaries and they do not hold themselves out as such to borrowers. Consumers select their securities advisor on a long-term basis, but regularly shop among mortgage lenders when seeking a mortgage.

It is noteworthy that survey data indicates that an intrusion by lenders into the borrower's personal decisions is unwelcome by the borrower whom a suitability standard would be designed to protect. One recent study found that 88 percent of respondents would prefer to "decide for themselves whether or not a mortgage product is right for them, rather than leaving that responsibility to the mortgage lender."[13]

Also notably, borrowers subject to a pilot program in the City of Chicago that imposes mandatory financial counseling only for borrowers in specific ZIP codes have filed a law suit alleging that the program amounts to "state-sanctioned redlining."[14] Governor

[13] *See* American Financial Services Association Press Release, "Borrowers, Not Lenders, Should Decide Appropriateness of Mortgage Products, Finds Survey," (Nov. 20, 2006).

[14] *See* Mary Umberger, "Home Buyer Counseling Challenged," Chicago Tribune, Nov. 2, 2006.

Blagojevich suspended this law on Friday, January 19, recognizing that it was hurting the people it was designed to protect, according to *The Chicago-Sun Times.*[15]

Lenders can and do offer valuable information to consumers. Lenders help consumers understand what mortgage products are available and for what mortgages they might qualify. For this reason, it pays for consumers to see lenders early in the home buying process, not only to determine what property they can afford, but also to consider their financing choices in relation to their particular situations, including their incomes, credit and plans to stay in their homes. Nevertheless, lenders cannot serve as agents and fiduciaries for borrowers as well as for their own companies.

Despite the wide range of market innovations, some borrowers have obtained loans with terms that negatively impact their ability to repay. Let us assure you, the fundamental goal that borrowers only obtain loans they can repay is shared by consumers, advocacy organizations, regulators and mortgage lenders alike. For this reason, the mortgage lending industry has a great stake in striving, along with advocacy organizations, legislators and regulators, to make the lending process as understandable and abuse-free as possible and more work is needed toward this goal. However, imposing a suitability standard is not an appropriate solution and would run the risk of turning back the clock on innovations that have greatly expanded home ownership opportunities.

Congress, therefore, should resist pressure to enact a suitability standard which would harm consumers. Retaining the current "arms length" transaction model in the mortgage lending industry works best.

VI. STEPS CONGRESS CAN TAKE TO PROTECT CONSUMERS

There are at least three things Congress can do to help consumers become better informed through the mortgage process, protect themselves and help them make the best choice for themselves.

First, considerable resources should be committed to improving borrower education to raise the level of financial literacy, including incorporating this issue into general educational programs and increasing access to transaction-specific borrower counseling. It would be a worthy undertaking to conduct a review of total government efforts in the area of financial literacy to see what is working is what is not. This study could also include the amount of resources expended for this purpose. MBA believes that better financial education would empower all borrowers to shop effectively among the array of competitors in the marketplace.

Second, simplification of the mortgage process and all necessary consumer information would make it much easier for an empowered consumer to navigate the market, and such improvements are long overdue. Consumers today face a pile of disclosures

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[15] *See* Lisa Donovan, "Gov Halts Mortgage Counseling," Chicago Sun-Times, January 21, 2007.

when they apply for and close on a mortgage. Efforts at improvement need to streamline the existing mandated disclosures and information, and must be comprehensive and well considered. A successful effort would result in much more effective information on the benefits, costs and features of the loan options presented by lenders. It would also go a long way to help borrowers shop for mortgages among lenders with an ability to make an apples-to-apples comparison.

Third, uniform lending standards that are clear and objective, but do not unduly restrict the market, would improve on the standards established under HOEPA to stop lending abuses. These standards must be national in scope to enhance competition in all markets for all borrowers, especially nonprime. Such standards will allow all borrowers to benefit from greater choices, competition and lower prices that a fair and fully functioning market brings. MBA would support the expansion of the types to loans to be covered in a uniform national standard to include purchase money loans and open-ended lines of credit.

MBA supports the framework for a national standard that includes the following principles and components.

Broad Principles of a National Standard:

- Uniform National Standard. A national law should recognize a national mortgage market by including broad preemption that facilitates competition and market efficiencies leading to low cost mortgage lending. It should apply to all lenders creating uniformity in the market. It should not change the current regulatory oversight, preemption or enforcement regime of those regulated by the Office of the Comptroller of the Currency (OCC), the Office of Thrift Supervision (OTS), the National Credit Union Administration (NCUA), the Federal Reserve Board (FRB) and the Federal Deposit Insurance Corporation (FDIC).
- Protect Financing Options. The innovation of lenders to make mortgage credit more widely available through a variety of products and financing tools should be protected. Unduly limiting or outlawing finance options could put homeownership out of borrowers' reach, particularly underserved borrowers.
- Risk-based Pricing. Lenders' ability to efficiently price loans based on the risk of non-payment presented by a borrower has revolutionized and expanded the availability of mortgage credit. Through risk-based pricing, mortgage credit is more widely available to borrowers, especially to traditionally underserved communities. A national standard should recognize and protect the benefits of risk-based pricing.
- A Suitability Standard Should Not Be Imposed. Certain groups have suggested imposing a suitability standard on mortgage lenders. Lenders already make a "suitability" determination through assessing affordability when underwriting a consumer's ability to repay a loan. A suitability standard beyond that threatens progress made in fair lending as well as the availability and affordability of credit to homeowners by reintroducing a subjective determination into a loan officer's

work. Further, the imposition of a suitability standard exposes lenders to significant liability and will increase the cost of mortgage credit since it could affect the mortgage-backed security marketplace.

- Objective Standards. The provisions of any national standard passed by Congress should include clear, objective standards so that consumers understand their rights and protections and lenders understand compliance requirements.
- Added Consumer Protections: MBA supports increased protections for consumers in a national standard.

Components of a National Standard:

A. HOEPA Triggers:

- Reasonable High Cost Loan Triggers. Almost no lenders will make loans that meet the HOEPA high cost loan triggers because of the significant liability that attaches. Investors will not buy high cost loans because of the liability, which dried up liquidity for these loans. The triggers, therefore, act as a de facto usury ceiling in that lenders won't make loans above the triggers. Therefore, the APR and point and fee triggers should be maintained at their current levels so that legitimate lending is not cut off. MBA would support the setting of triggers at a reasonable level to help assure that mortgage credit continues to be available to credit-worthy borrowers.
- Point and Fee Definition Should Not Be Overly Broad. A national standard should maintain the items included in HOEPA for making the point and fee calculation. Neither prepayment penalties, nor yield spread premiums should be included in the definition because doing so would threaten the use of these finance options and because the value of those items is already reflected in the interest rate and APR. Thus, including those items in a points and fees test would result in double counting. Lowering the point and fee trigger by excessively expanding the point and fee definition will invariably cut off legitimate credit to our neediest borrowers.

B. HOEPA Protections:

- Refinancing a Loan Should Provide a Benefit to a Borrower. Existing loans should not be refinanced into a high cost mortgage loan unless doing so provides a benefit to a borrower. A national standard should allow regulators to establish objective safe harbors for determining when the benefit threshold is met.
- No Asset Based Lending. Evaluating a borrower's ability to repay a loan is fundamental to a lender in underwriting a mortgage application. A lender has every incentive to ensure a loan is properly underwritten since the lender takes the risk of loss on a defaulting loan and, through agreements with investors, can be forced to repurchase a loan from the secondary market. A borrower's ability to repay a high cost loan should not be solely based on the collateral value of the property.

- Assignee Liability. MBA supports the maintenance of the existing assignee liability regime provided in the Truth in Lending Act (TILA) and HOEPA.

C. Consumer Protections for All Loans:

- Prepayment Penalties Should Be Limited to Three Years. Prepayment penalties reflect an agreement between the lender and borrower whereby the borrower agrees to stay in a mortgage for a period of time in exchange for a lower rate or a significant reduction in fees. If a prepayment penalty is offered, it should be limited to three years and clearly disclosed to the borrower.
- Yield Spread Premiums Are a Valuable Financing Option. A yield spread premium (YSP) is a very good mortgage financing option that allows borrowers to pay closing costs through the rate. The inability to use yield spread premiums could bar creditworthy borrowers from homeownership. Where RESPA requires it, MBA would support improved YSP disclosures.
- Borrowers Should be Given Choice to State Income. Stated income loans are important to certain borrowers, especially in the emerging markets, because documenting their income in connection with a mortgage application can be difficult. Further, interested borrowers should be given the option of choosing a stated income loan versus a fully documented income loan if the borrower so chooses and if the lender has disclosed any cost difference.
- Home Improvement Contracts. Lenders should disburse loan proceeds to the borrower or jointly to the borrower and the contractor, or through a third-party escrow agent. Lenders must not disburse loan proceeds until the payment is approved in writing by the borrower, the contractor has signed a certificate of completion or the contract, and the property has been made available to the lender for inspection.

D. Standards for All Loans:

- Right to Cure. A national standard should permit lenders reasonable time to "cure" any unintended errors in the mortgage transaction without incurring any further or punitive liability.
- Accurate Appraisals. When formal valuation methods are required, lenders must evaluate properties through real estate appraisal professionals and/or through automated valuation models. Participants to the transaction must be careful not to either pressure or be pressured. Lenders must ensure that the appraiser is licensed as required by law and make a good faith effort to ensure the appraiser is in good standing.

Finally, while any increases in delinquencies and foreclosures are an important concern, prohibition of particular products is not a solution – because they are not the cause. Many borrowers have used a range of products effectively to realize their dream of homeownership and otherwise satisfy the financial demands that we all face.

Conclusion

MBA members have worked hard to put Americans in homes, facilitating the development of communities, increasing consumer wealth and improving the stability of families across the nation. The transitioning of the subprime mortgage market and the affect it is having and will likely continue to have on access to mortgage credit is a challenge for us all. MBA implores Congress not to act hastily but to partner with industry and consumer groups to develop new approaches to help borrowers get the mortgage credit to fulfill their dreams of homeownership or to refinance into a new loan.

MBA has been long committed to fighting predatory lending and we would welcome the opportunity to work with Congress to develop policies that weed out bad actors and allow the mortgage industry to continue to serve borrowers. Financial literacy, mortgage simplification and a uniform national standard are steps Congress can take to address abusive lending.

MBA wants to underscore the importance of innovation in making credit opportunities available to consumers. MBA believes that borrower choice should be protected. The imposition of a suitability standard risks undermining our hard won gains in the areas of homeownership and reaching underserved borrowers. It will take away consumer choice as well as access to affordable mortgage credit.

Lenders and consumers alike have every incentive to keep borrowers in homes. Foreclosure is a loss for everyone. Foreclosures are caused in large measure by life events like job loss, divorce and illness. Lenders work very hard to offset foreclosure and work with delinquent borrowers to try to keep them in their homes.

MBA looks forward to continuing to work with this subommittee and the whole Congress to address challenges in the housing market and we stand ready to assist you however we can.

Thank you.

Mr. KUCINICH. Thank you very much. I'd like to give—Mr. Issa, if you would like to go first with the questions.

Mr. ISSA. Thank you, Mr. Chairman. I'm going to ask some hypothetical questions. I think the first couple of panelists have done us a lot of good.

Ms. McCarty-Collins, have you looked at Mr. Pollock's one-pager?

Ms. MCCARTY-COLLINS. I have not personally. I'm not sure if the association has that.

Mr. ISSA. I have, and perhaps you can leave with one today. I did find it interesting that I, too, have gone through the mortgage process multiple times and you get to where you're signing and initialing and signing and initialing so many times. And by the way, that's after you did the realtor part of it, which seems to grow by several pages a year.

And I really do think that one of the things that your association needs to look at, is you need to look at how to meet all legal requirements that people are putting on you, but also give somebody something that they can understand that says it very clearly.

But let me ask you the second rhetorical question, and, perhaps, since we have two Federal judges in the room, you couldn't have a better time. If the Federal Government acted to create a tort balance that would say that if a Federal judge found, let's say, in the Federal class action or a State, if appropriate, that, in fact, the portfolio in the hands of whoever had it was tainted by predatory practices, and that portfolio's value could represent, if you will, the liquidated damages, would that change how the oversight would occur without us passing a separate law, but simply shifting the financial outcome if, in fact, in a court it was found that the, that it was part of a portfolio that had damaged people through—and I don't use the word predatory all the time. I don't think all subprime, certainly VA, FHA are not predatory. But assuming for a moment that there's a finding in court, would you think that would change the way that you would evaluate portfolios and the way that you would be held to deliver them?

Ms. MCCARTY-COLLINS. You're talking basically assigning liability.

Mr. ISSA. Yes.

Ms. MCCARTY-COLLINS. OK. I think that's a yes and no answer.

Mr. ISSA. I'll just take a yes.

Ms. MCCARTY-COLLINS. Well, the only problem with assigning liability is that when the secondary market view that as such a—what word do I want to use?

Mr. ISSA. I'm going to assume it would be less assigning.

Ms. MCCARTY-COLLINS. And you have to have it. You have to be able to—you have to have a secondary market for those mortgages.

Mr. ISSA. I totally agree with you that you would have to, but I just want to followup. You know, when those subprime companies went out of business, they didn't go out of business with portfolios in their hand. They simply closed their doors, sold off their desk. For the most part, a lot of them had been transactional in nature, and the fact is somebody else is holding the portfolio.

Ms. MCCARTY-COLLINS. But as a lender and speaking of—when we're talking mortgage bankers, we are the lenders. We are not mortgage brokers. We are not a pass through. So, as the lenders, these subprime companies had a duty to the secondary market in that they had to buy back its mortgages if there was fraud, if there was predatory problems.

So—and we all have those buy-back agreements in the loans that we sell in the market. So, what happens is as a result of those buy backs, this is what has bankrupted most of those companies, not the fact that they made the subprime or predatory loans, but the fact that they were found to be predatory and/or fraudulent, and they had to buy these loans back.

Mr. ISSA. Or close their doors because they had not reserved——

Ms. MCCARTY-COLLINS. They did not have the capital to buy them back.

Mr. ISSA. So, that was my point in saying that they were transactional in nature. They were doing this, but ultimately without an underlying separate insurance they were in a position to issue dividends or disperse profits in the good times and then close their doors in the bad times.

Ms. MCCARTY-COLLINS. That is probably true.

Mr. ISSA. Mr. Pollock, I've teed up the question for you. I'm intrigued at the reception you've been getting when you've said—you know, because we all grew up with Truth in—well, I'm afraid that's us old guys today. I remember when Truth in Lending came out, and I remember when we tried to simplify the understanding so that you wouldn't think you were paying 6 percent when the annual rate ended up being 35 or whatever it compounded to. Why is it we're back to that exact same point? How is it that we lost track of simplicity?

Mr. POLLOCK. Thank you, Congressman. One of the fans of this who has been helping me, was a staffer on Capitol Hill in Truth in Lending was——

Mr. ISSA. Even I get the bell, too.

Mr. POLLOCK. And he told me you should call this Truth in Mortgage Lending, and I said, no, because I don't want to repeat what happened to Truth in Lending, was you started off with a simple idea and made it incomprehensible. That's why I have this insistence on a one page and regular-sized type. That's the another thing. I don't think you should allow little type, which confuses people.

I'm not suggesting that all of the other stack of things you get could be taken away or this is just something you get on top, but for the first time——

Mr. ISSA. This is like the Ditech commercial though, except you're putting one more on and not taking one off.

Mr. POLLOCK. That's it.

Mr. ISSA. OK.

Mr. POLLOCK. Exactly. I believe it's the first time, I believe, that in the American mortgage system we've ever talked about disclosures that disclose the relationship of you, the borrower, and your income to the loan, as opposed to telling you a vast detail about the loan itself and leaving it to you to figure out if you can even understand that, how it applies to your own personal situation.

Mr. ISSA. OK. I appreciate your indulgence. Professor, I was intrigued by the fact that you've studied this both as a subprime and looking at conforming loans, as we call them, in California. From a practical standpoint, and we've dealt with this on the earlier panel, is there sort of the elasticity of demand? If we crank down and reduce some of these subprime loans, how much are we going to crank down the opportunity for home ownership? How elastic is that market, and can we make some reforms? At what point do we begin to reverse a trend of greater home?

Ms. ENGEL. I think this is a fundamental question in any type of credit regulation. How do you find that balance between making good credit available to people who otherwise wouldn't obtain credit, and how do you also protect people from the worst abuses in the market?

One of the really nice things that's happened from a research standpoint is that over the last 10 years a number of States have passed anti-predatory lending laws, North Carolina being at the vanguard and the most well known. And one thing that's not on my resume, but it will be shortly is that——

Mr. ISSA. You have an awfully good resume for having something left off.

Ms. ENGEL. Well, you don't put things on until you know they're going to get published.

Together a group of economists and my co-author, Pat McCoy, we've been looking at every State and local effort to regulate predatory lending, and we have coded all of those laws and looked to see what impact the laws have had on loan applications, loan rejections and loan originations. And interestingly in the States with the strongest laws, the loan applications and originations have gone up.

And there are many different conclusions you could draw from this, but one possible explanation is that the really good subprime borrowers were afraid of taking out loans because they heard about all the abuses in the market. And when the State stepped in and said we're going to regulate the worst abuses, they said, I feel safe and I feel protected by the State.

It's hard—you know, I'm not going to say I know that's the causality, but what I do know is that in the States with the strongest regulations, we're seeing stable or increased subprime lending.

And the other point, I think, that's very important, is this whole issue of assigning liability. And any regulation or laws that we have in this country have to be very careful in terms of assigning liability. We can't have open-ended assigning liability for punitive damages.

But if it's predictable in assigning liability in a liquidated amount, which many of these State laws have, then we can hold people to lead to the fire in terms of having a secondary market, police, as it were, the lenders without drawing on credit.

Mr. ISSA. Mr. Chairman, one thing you have to know in this business is when to quit on a high note. Thank you. Great answer.

Mr. KUCINICH. I want to say, Mr. Issa, the question that Professor Engel acknowledged in terms of what about home ownership, how do people who don't have the best of credit get home ownership? What happens? That's a key question here. And I think that one of the areas that this committee may, in our continuing work may inevitably look at, you know, are their questions relating to home ownership availability, availability to credit and also the underlying monetary process. There's a real serious question here about monitoring policy that seldom gets looked at, and bringing the Fed into this discussion for the first time enables us to move into that question.

I want to, again, tell Judge Pianka that I looked at your whole statement, and it's quite significant, and I want to ask you, without significant new regulatory enforcement from the Fed and other agencies, what do you predict for cities like Cleveland and neighborhoods with significant foreclosure problems?

Judge PIANKA. The prediction by Treasurer Rokakis, that it's only going to get worse, I think, is absolutely true.

And, unfortunately, the collateral damage that affects the streets and the neighborhoods just compounds.

In addition, no more—there has never been greater time in our history of the city of Cleveland when there have been more properties owned by banks and mortgage companies.

Mr. KUCINICH. You know, Mr. Pollock said something, and, Mr. Issa, this is something that in your testimony you pointed out that this phenomenon that has hit low-income areas now, the subprime mortgage is shifting away from lower-income areas and going into middle and higher income areas; is that right.

Mr. POLLOCK. I pointed out this interesting study by COHHIO is the fact that subprime lending is principally a middle and higher-income activity.

Mr. KUCINICH. That jumped out at me because what it says is that the—it may be that the subprime business has more or less maxed out in some of these communities, and now we're seeing all the boarded up homes.

But then, if you have that core, as we have in Cleveland, which is already beginning to be hollowed out, and now there's a shift to the middle-income and even upper-income areas. It's possible we may, absent any kind of new regulatory or legislative authority, we may see this spread like a cancer. How do you respond to that?

Judge PIANKA. Mr. Chairman, it's spreading out to inner ring suburbs and to the outer ring suburbs as well.

Mr. KUCINICH. We have the map here. Did we put the map away? We saw them. We saw the kind of spread starting to occur.

Judge PIANKA. Unfortunately, what we've seen in the urban areas in Cleveland, many times the financial institution will abandon the property but keep a lien on the property and it becomes a toxic lien. And that property cannot be transferred, and then the cities and the neighbors are held hostage to those properties. Every boarded up property in the city of Cleveland sends a signal that mortgage amount is greater than what the value of that property is, and there are thousands of properties.

Mr. KUCINICH. So, judge, you know, can the city make a comeback if you, as a housing court judge, cannot properly transfer title to the foreclosed houses.

Judge PIANKA. Well, there can't be progress because they sit there, and then it has a domino effect on people's decision whether they stay in a neighborhood or invest in a neighborhood.

Mr. KUCINICH. Thank you, your Honor.

To Ms. Engel, what specifically should the Fed do to put a stop to the coincidence of banks receiving credit for their CRA exams for predatory loans made by their affiliates who are invested in them for their portfolios, and how should the Federal bank regulators assess a value on the quality of loans?

Ms. ENGEL. I think that the first thing is that the regulators need to start taking into account the activities of the affiliates and the subsidiaries, because by limiting the exams to just the banks, it is really giving the subsidiaries and the affiliates cart blanche to engage in wrongdoing without it coming to the attention of the regulators.

The banks can voluntarily have a more expansive CRA exam, but I don't think I know of any situations where a bank has said, oh, yes, please come and look at our subsidiaries and our affiliates. It's, you know, not likely that they're going to do that. So, I think that's a key thing.

I think that CRA also could take a stronger position in terms of what's getting disclosed in the HMDA data. We need to have credit score information in the HMDA data. We need information about fees. It's just insufficient. Even when the Federal Reserve Bank is doing its own HMDA analysis, it's finding itself with its hands tied in terms of the ability of the data to really generate a meaningful analysis.

Mr. KUCINICH. Thank you. And I just have one more question for Ms. McCarty-Collins. For borrowers who contact groups like NeighborWorks America or other consumer credit counseling groups, does this effect their credit scores just by making a contact.

Ms. MCCARTY-COLLINS. No. Not by making a contact. And those agencies work with the lenders to try and work out modifications and repayment schedules for them. At this point, I would say that their credit is probably already harmed by the time they call.

The biggest problem that we find is that people that become delinquent on their mortgage are afraid to call their lender, and then it really becomes too late, and so we're trying to get some early intervention for them.

Mr. KUCINICH. I want to thank the members of the panel. This has been a very good panel and just the testimony that we've read would be the basis for a lengthy hearing in and of itself, but your testimony will be included in the record and will be available for review as we continue to move forward with this topic. It's very helpful.

I want to thank Chief Judge Carr for making this facility available and all Federal judges for their indulgence for having this meeting in this building. I want to thank the staff, both of our majority and minority staff, because you made it possible for us to come together to have this hearing, as well as the court stenographer.

I want to thank all of the public officials who have attended and whose cooperation we will need as we move forward on the community groups represented here.

This has been a hearing of the Domestic Policy Subcommittee of the Government Oversight and Reform Committee. The topic of the hearing has been Foreclosure and the Federal Reserve Bank of Cleveland. I want to thank all of you for attending. This committee is in adjournment.

[Whereupon, the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

Interpretive Letter #1048
January 2006
12 USC 29

December 21, 2005

Brian W. Smith, Esq.
Latham & Watkins LLP
555 Eleventh Street, N.W.
Suite 1000
Washington, D.C. 20004-1304

Re: Request for Legal Opinion from Union Bank of California, N.A., San Francisco, California, on Funding Proposal

Dear Mr. Smith:

This letter responds to your request on behalf of Union Bank of California, N.A., San Francisco, California ("Bank"), concerning the Bank's proposal to provide funding to a limited liability company ("Company") that would operate a wind energy project[1] ("Project"). The Project uses wind turbines to generate electricity and sells the electricity through long-term contracts. The sale of the electricity generates renewable electricity production tax credits under section 45 of the Internal Revenue Code, 26 U.S.C. § 45 ("Section 45 Tax Credits"). In order to reduce the cost of financing to the Company while ensuring a proper return on the financing, the Bank proposes a structure that will allow it to take advantage of the Section 45 Tax Credits. For the reasons discussed below, we conclude that the Bank may provide financing to the Company in the manner described, provided the Bank's examiner-in-charge ("EIC") is satisfied that the Bank has adequate risk management and measurement systems and controls to conduct the financing activity in a safe and sound manner.

I. Proposal

The Bank desires to provide financing to the Company. At the request of its customer and in order to provide the financing in a manner that maximizes the use of the available tax credits, the Bank would acquire approximately 70% of the equity interest in the Company. The remaining interest would be acquired by the Project's sponsors and managing members of the Company, *i.e.*, the Bank's customer.[2]

[1] A "wind energy project" consists of an expanse of land covered with wind turbines that harness wind energy.

[2] The Project's sponsors typically are entities experienced in the energy industry with a history of such sponsorship.

The Company would acquire the necessary manufactured wind turbines and all ancillary equipment for the Project and would acquire an interest (either a leasehold interest or an easement) in the underlying real estate. Management and operation of the Company would be the responsibility of the Project's sponsors and managing members, with day-to-day operations handled through an operations and maintenance contract with an experienced third-party. Energy output would be contractually sold on a long-term basis to creditworthy parties.

You represent that the Bank's decision to extend financing to the Company would be based upon a full credit review of the transaction. This review and creditworthiness determination would be made pursuant to the Bank's standard loan underwriting criteria, including the assessment of a variety of project sensitivities based on various risk scenarios to ensure a predictable rate of return. If the financing for the Company is approved, the Bank would provide financing in the form of an investment in the Company. The Bank would be repaid in regular installments consisting of income provided by the revenues produced by the Project and the Section 45 Tax Credits.

In order to avoid recapture of the Section 45 Tax Credits, the Bank must hold its interest in the Company for at least ten years. Promptly after the expiration of the statutory holding period, the Bank would sell its interest in the Company to the Project's sponsors and managing members.

Finally, you represent that the Bank would have a variety of remedies available if a Project proved to be performing poorly. The Bank would have available to it covenants similar to those found in a secured financing transaction, including the ability to force a vote for dissolution of the LLC. If the Bank wished to extricate itself from a distressed Project, it could do so by selling its interest in a manner similar to that employed in selling distressed loans. With respect to a distressed Project, if caused by the Project manager, in addition to removing the manager the Bank would have a variety of claims available against the manager, its assets, and its cash flows. Where the distress is beyond the manager's control, the bank believes the distressed Project would be comparable to a project finance transaction in which the lenders collectively decide to liquidate the asset or individually to sell their loans in the marketplace. In either instance, a key component of the realized value would be based on the circumstances of the underlying assets.

II. Legal Analysis

A. Funding the Company is a permissible exercise of lending authority.

A national bank may engage in activities that are part of, or incidental to, the business of banking. Twelve U.S.C. § 24(Seventh) provides national banks with broad authority to make loans or other extensions credit.

The transaction proposed by the Bank is a form of structured financing patterned after a typical debt transaction – the extension of credit to the Company with payment to originate from proceeds received from the sale of power generated by the project. The Bank represents that the decision whether to provide financing to the Company would be based upon a full credit review of the transaction made pursuant to the Bank's standard loan underwriting criteria. The Bank further represents that the Company's LLC agreement would contain many of the same terms, conditions, and covenants typically found in lending and lease financing transactions, including representation and warranties, conditions precedent to funding pertaining to the mitigation of risks, covenants requiring the Company and the other investors to provide the Bank with customary financial information, and covenants restricting the Company from taking certain actions.

In Corporate Decision 99-07 (May 26, 1999), we approved a national bank's provision of financing to an entity that owned and wished to rehabilitate several historic properties. The bank provided the financing in the form of an investment in the entity, which permitted the bank to receive the federal rehabilitation tax credits. We concluded that, in substance, the transaction was the provision of construction financing which would be repaid both from the rehabilitated properties' operating income and through the tax credits. By taking advantage of the tax credits, the bank was able to facilitate the financing by reducing the cost of borrowing while receiving an appropriate yield. For these reasons, it was proper to treat the transaction as an extension of credit that is permissible for national banks.

Similarly, in an Interpretive Letter, dated November 4, 1994 (available in Lexis-Nexis), we approved a national bank's provision of financing to owners of natural gas leases by acquiring an interest in a business trust that owned the working interests in the leases. By structuring the financing as an investment in the trust, the bank qualified to receive the federal tax credits, thereby permitting the bank to reduce the cost of the financing while assuring an appropriate return. The letter concluded that the transaction was the equivalent of an extension of credit and that the substance of the transaction should prevail over the form in which it had been cast.[3]

Based upon the information provided and the Bank's representations, the proposed financing transaction fits the definition of loan or other extension of credit in section 24(Seventh).

B. Transaction is not prohibited by 12 U.S.C. § 29

The structure of the proposed financing transaction – as an acquisition by the Bank of an interest in the Company – is customer-driven, requested by the Project's sponsors and managing members as an efficient and cost-effective means to provide financing for the Project. Notwithstanding this structure, the substance of the proposed transaction remains, as described above, the provision of financing for the Project.

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[3] *See also* Corporate Decision 98-17 (March 23, 1998) (approving as an extension of credit transaction that included bank's acquisition of working interests in natural gas leases operated by borrower).

The economic substance of a transaction, rather than its form, guides our analysis of whether a national bank is prohibited from engaging in a certain activity.[4] Here, the investment in the Company is a means to provide financing to the Project. As part of the proposed financing arrangement the Bank, through its acquisition of an interest in the Company, will acquire interests in the land and the wind turbines. Because the substance of the transaction guides our analysis, we look through the form of the proposed transaction and assess whether the indirect interests in the land and the wind turbines acquired by the Bank (through its investment in the Company) are interests in real estate subject to 12 U.S.C. § 29 ("section 29") and, if so, whether the Bank permissibly may acquire such interests as an integral part of the proposed transaction.

A national bank's authority to own real estate is governed by section 29, which provides that "[a] national banking association may purchase, hold, and convey real estate for the following purposes, and for no others:

> First. Such as shall be necessary for its accommodation in the transaction of its business.
>
> Second. Such as shall be mortgaged to it in good faith by way of security for debts previously contracted.
>
> Third. Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings.
>
> Fourth. Such as it shall purchase at sales under judgments, decrees, or mortgages held by the association, or shall purchase to secure debts due to it."

Thus, section 29 grants national banks the authority to purchase, hold, and convey real estate only for certain specified purposes. Unless authorized by another statute, national banks may not acquire, own, or convey an interest in real estate for any purpose other than those specified in section 29.[5]

The critical determination is whether a certain property interest constitutes a section 29 interest in "real estate." Section 29 itself does not contain a definition of "real estate" and does not direct the OCC to consider state law definitions in applying the statute. Nonetheless, as a general matter, the OCC has in the past been guided by state law in determining whether

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[4] *E.g.*, Corporate Decision 99-07, *supra;* Corporate Decision 98-17, *supra*; Interpretive Letter, dated November 4, 1994, *supra*. *See also* Interpretive Letter No. 867, *reprinted in* [1999-2000 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81-361 (June 1, 1999) (noting that OCC looks to substance of non-traditional financing arrangement to determine whether it is permissible part of business of banking).

[5] National banks may acquire a section 29 interest in real estate when doing so is an integral part of or incidental to an authorized banking activity, provided that doing so is not inconsistent with any of the purposes underlying the limitations of section 29. *See, e.g.*, Corporate Decision No. 99-07, *supra* (acquisition of interest in historic property permissible as integral to provision of construction financing); Interpretive Letter No. 966 (May 12, 2003) (acquisition of legal title to residential real estate for a period not to exceed ninety days, where bank divests itself of beneficial interests in real estate, permissible as incidental to package of finder and other bank permissible activities).

particular interests are subject to section 29.[6] More specifically, the OCC previously has looked to state law definitions of "real property," a term with a broader meaning than the language – "real estate" – used in section 29.[7]

In recent years, however, it has become increasingly apparent that market developments have created, and national banks' financial intermediation activities may involve, types of assets clearly distinguishable from the type of asset typically associated with the term "real estate," yet which come within state law definitions of "real property." Moreover state law definitions are not consistent and an asset may be within the definition of "real property" in one state, but not another. Using a different definition of "real estate" for purposes of section 29 in different states thus could result in national banks' permissibly acquiring certain interests in one state but being prohibited by section 29 from acquiring the same interest in another state. Such a result is illogical, inefficient, and is inconsistent with the authority of national banks to operate under uniform federal standards.

Accordingly, we have determined that in the future we will apply a federal definition of "real estate" to determine what constitutes real estate subject to the limitations of section 29.[8] In determining whether a property interest is subject to section 29, this federal definition will be guided by the purposes and principles underlying section 29. For example, soon after enactment of the Act, the Supreme Court in *Union National Bank v. Matthews*,[9] stated that the three purposes underlying section 29 were to keep the capital of the banks flowing in the daily channels of commerce; to deter national banks from embarking in hazardous real estate speculations; and to prevent the accumulation of large masses of such property in the banks' hands, to be held, as it were, in mortmain.[10] We also will consider the treatment accorded such interest under the laws of the various states, but the state law characterization of the interest will not, alone, be dispositive.

In this proposal the Bank would acquire, through its investment in the Company, an indirect interest in the land upon which the wind turbines would be affixed. This interest, whether a leasehold interest or an easement, clearly is an interest in real estate subject to section

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[6] As far back as 1982, the OCC acknowledged that reference to state law to determine the definition of "real estate" was not required by section 29. *See* Interpretive Letter (March 18, 1982) (published in Lexis-Nexis).

[7] Cunningham et al., *The Law of Property* § 14 (1984 ed.); Tiffany, *The Law of Real Property* § 1 (1970 ed.).

[8] This approach is consistent with the approach that the OCC has taken in defining other terms that appear in the National Bank Act ("Act"). The Act is a vehicle for the implementation of federal policy with regard to banking. Accordingly, the OCC generally has developed federal definitions for the crucial terms that appear in the Act. For example, the OCC has developed and continues to apply federal definitions of "interest" for purposes of 12 U.S.C. § 85 and "branch" for purposes of 12 U.S.C. § 36. There is nothing in the plain language or legislative history of section 29 that demands a different approach.

[9] 98 U.S. 621 (1878).

[10] *Id.* at 626.

29.[11] We further conclude that the Bank's acquisition of this interest is not prohibited by section 29.

Notwithstanding section 29, national banks may acquire an interest in real estate when doing so is an integral part of an authorized banking activity, provided that doing so is not inconsistent with any of the purposes underlying the limitations of section 29. This principle is well supported by OCC precedent. In Corporate Decision No. 98-17, *supra*, the OCC permitted a national bank to acquire working interests in natural gas leases in order to provide financing to the producer. In order to allow the bank to take advantage of available tax credits to reduce the cost of borrowing to the producer while ensuring the bank's return on its extension of credit, the bank acquired the working interests in the gas leases. The letter opined that because acquiring legal title was an integral step – undertaken to further the permissible financing transaction – acquisition of the working interests was not prohibited by section 29.[12]

Similarly, in Corporate Decision No. 99-07, *supra*, we approved the provision of financing to an entity that owned and wished to rehabilitate several historic properties. The bank provided the financing by acquiring an interest in the entity, thereby giving the bank an interest in the historic properties. Such an interest permitted the bank to receive the federal tax credits. The decision concluded the bank's acquisition of an interest in real estate was not prohibited by section 29 because such acquisition was an integral part of authorized financing activity.

A key element to each of these letters is that the interest in real estate must be acquired as an integral part of an authorized banking activity. In the case of the proposal here, the Bank would acquire its indirect interest in real estate as part of and in furtherance of its provision of financing for the project. By taking advantage of the tax credits, the Bank would be able to facilitate this financing by reducing the cost of borrowing while receiving an appropriate yield.

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[11] Through its investment in the Company, the Bank also would acquire an interest in the wind turbines. The states that have considered the character of wind turbines are split as to whether they are real property or personal property. For example, New York has characterized wind turbines as taxable real property, *see* 9 Op. Counsel S.B.R.P.S. No. 114 (Jan 27, 1993), while the Colorado, South Dakota, West Virginia, and Wyoming legislatures have characterized wind turbines as personal property, *see* Colo. Rev. Stat. § 25-6.5-201; S.D. Codified Laws Ann. § 10-4-36; W.Va. Code Ann. § 11-6A-5a; Wyo. Stat. Ann. §§ 39-15-105 and 39-16-105. In California, the courts have determined that wind turbines are personal property. *See In re Oak Creek Energy Farms, LTD*, 107 B.R. 266 (Bankr. E.D.Cal. 1989), *aff'd* 119 B.R. 739 (E.D.Cal. 1990), *aff'd* 956 F.2d 1167 (9th Cir.1992). However, because we conclude for the reasons below that section 29 does not preclude the Bank from holding interests in real estate as an integral part of this transaction, we need not decide the issue of whether the interests in the turbines are "real estate" under our federal definition of the term.

[12] *See also* Interpretive Letter, dated November 4, 1994, *supra* (acquisition of working interests in natural gas leases operated by borrower an integral part of provision of financing). We express no opinion whether working interests in natural gas leases are interests in "real estate" under the federal definition adopted in this letter.

Further, the acquisition of these indirect interests in real estate is not inconsistent with any of the purposes underlying the limitations in section 29.[13] The Bank's capital, far from being removed from the daily channels of commerce, would be put to productive use by the Company to finance the Project and would be repaid to the Bank in regular intervals. The Bank would not acquire large amounts of real estate to be held indefinitely; rather, the Bank's interests would be restricted both in scope and time. Under the LLC agreement, the Bank would have no responsibility or obligation to manage or operate the Project. Such responsibilities would be the obligation of the other members of the Company. And the Bank's interests would be held only for the statutory holding period required by the Internal Revenue Code. Promptly upon the expiration of this holding period, the Bank would sell its interest in the Company to the other members.

Finally, the acquisition of the interests in real estate is not speculative. Structuring the financing in the manner proposed is necessary for the Bank to remain competitive in the marketplace for financing renewable energy producing projects. The structure of the proposed financing is driven by the Project's sponsors, and if the Bank cannot provide the financing in the manner proposed, the borrower would look elsewhere. Moreover, the Bank would not share in the appreciation or depreciation in value of the land or turbines. When the Bank divests its interest in the Company at the end of the statutory holding period, it would sell its interest to the Company's other members. These members would continue to own and operate the project and, upon termination of the project, would recognize any change in value of the land and turbines.

III. Conclusion

For the reasons provided above, and provided the Bank's EIC is satisfied that the Bank has adequate risk management and measurement systems and controls to conduct the financing activity in a safe and sound manner, we conclude that the Bank may provide financing to the Company in the manner stated. Our conclusion is based upon the information and representations you have provided. A material change in the facts may result in a different conclusion. If you have any questions, please contact Steven Key, Senior Attorney, Bank Activities & Structure Division, at (202) 874-5300.

Sincerely,

/s/ *Julie L. Williams*

Julie L. Williams
First Senior Deputy Comptroller
and Chief Counsel

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[13] *See* footnotes 9 and 10, *supra.*

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Legislators Question OCC Realty Rulings

BYLINE: Joe Adler

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Members of a House Government Reform subcommittee grilled Julie Williams Wednesday over the Office of the Comptroller of the Currency's 2005 decisions to let three banks develop real estate.

The agency's first senior deputy comptroller staunchly defended letting Bank of America develop a luxury hotel, PNC Bank develop a mixed-use condominium project, and Union Bank of California invest in a wind-energy farm.

"Let me be very clear that" the rulings "do not breach the boundaries between banking and commerce, do not authorize national banks to engage in the business of real estate investment," and "have nothing to do with merchant banking," Ms. Williams told the House Government Reform government management, finance, and accountability subcommittee.

But Rep. Paul Kanjorski was not convinced.

"Anybody who owns a hotel can hire an operator" to run it. "But you're still in the hotel business," the Pennsylvania Democrat said. "What if they wanted to put a Hard Rock Cafe in the hotel? Would that be a bank?

"I interpreted this and the windmill project as going way over the line," he said.

Rep. Edolphus Towns of New York, the subcommittee's ranking Democrat, said the OCC's rulings "created potential loopholes" for banks to enter the real estate business. "Isn't it true that none of the condos" in the PNC project "will be for the bank's own use?" he asked Ms. Williams.

She conceded the answer was "yes," but she said the condos were a "critical piece" of making the project economically feasible.

Ms. Williams argued that the approvals are not dramatic changes in policy, pointing out that B of A and PNC own the land where the projects are being developed. Union Bank, which is mostly owned by Mitsubishi UFJ Financial Group Inc., is involved in the wind farm strictly for project financing, she said.

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CRS Report for Congress

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Affiliates in Banking, Finance, and Commerce: Development and Regulatory Background

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Summary

The proliferation of corporate affiliates in banking, finance, and commerce has figured in discussion of several policy issues, including how to protect against (1) losses incurred by affiliated companies; (2) anticompetitive "tying" of bank and nonbank financial services; and (3) misuse of financial data of consumers. The Gramm-Leach-Bliley Act in 1999 greatly increased affiliations. Sharing of consumer financial information among affiliates, one issue in reauthorization of the Fair Credit Reporting Act, requires considerable attention to affiliations. Proposed Community Reinvestment Act regulations involve affiliates of banks. Comptroller of the Currency efforts to bring subsidiaries of national banks under federal banking law, preempting than state laws, also involve affiliations. This report outlines the nature and evolution of affiliates, primarily from a regulatory perspective. It provides background for discussing financial issues involving corporate affiliates and will be updated as events warrant.

Background and Analysis

Conducting "nonbanking" activities directly within a bank has generally been viewed as a threat to the integrity of the bank. Periodically in American financial history, and in other nations today, bank diversification into nonbanking financial and commercial business has emerged.[1] Safety problems often followed because of a tendency for entrepreneurs to combine captive sources of (bank) funds with their own (commercial) uses of funds, without regard for normal due diligence. By forcing nonbanking activities into a separately capitalized, separately run company associated with a bank, policymakers sought to lessen the risks that self-funding may pose to banks, to deposit

[1] Joseph G. Haubrich and Joao A. C. Santos, "Alternative Forms of Mixing Banking with Commerce: Evidence from American History," *Financial Markets, Institutions & Instruments*, vol. 12, no. 2, pp. 121-164.

insurance funds, and to other governmental policies. Overall, financial policy has periodically limited commercial/banking affiliations since the 1830s.

The term "affiliate" refers to "any company that controls, is controlled by, or is under common control with another company."[2] Companies with ownership interests of 25% or more in common are usually always affiliates. Sometimes, a common ownership interest as low as 5% is sufficient if it involves director selection, policy direction, and similar control matters. Affiliations are often valued for their potential of cross-marketing, involving sharing of consumer financial information; thus becoming one focus of the Fair Credit Reporting Act debate in Congress,[3] which resulted in the Fair and Accurate Credit Transactions Act of 2003, P.L. 108-159. Application of it must address cross-marketing/information-sharing involving affiliates.[4]

The simplest affiliation is that of a subsidiary, where a bank owns another financial business 100%. Examples are a bank owning an insurance agency, small business investment company, or securities broker. Subsidiaries are regulated by the primary regulator(s) of the owning banks. A more complicated structure involves a company controlling banks. This state-chartered business is known as a "bank holding company." It "holds" the stock of one or more banks and, often, of other financial businesses. A bank holding company typically holds all the stock of at least one bank, and a mortgage company, a securities firm, or a commercial finance business. It may also hold all or part of joint ventures, foreign alliances, investment companies, and other businesses within its structure.[5] The Federal Reserve (Fed) regulates bank holding companies.

A more complex form of bank holding company is the financial holding company, authorized by the Gramm-Leach-Bliley Act (GLBA, P.L. 106-102) in 1999. As specially empowered bank holding companies, these entities may additionally hold full-service securities and insurance operations, including those making nonfinancial equity "merchant banking" investments. Similar diversification arrangements allow securities-based entities to form investment bank holding companies, and savings associations to come under "thrift" holding companies. GLBA listed activities for such affiliations: underwriting and dealing in securities, sponsoring and distributing mutual funds, selling and underwriting insurance, and making insurance company and merchant banking portfolio investments. Regulators may allow other business affiliations.

The Fed, as the regulator of financial holding companies, oversees them to prevent affiliations from lowering the soundness of deposit-insured banks. Sections 23A and 23B of the Federal Reserve Act built financial "firewalls," which prevent banks from supporting failing nonfinancial affiliates, or engaging in anticompetitive tying in financial

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[2] 12 U.S.C. 1841.

[3] CRS Report RS21576, *Fair Credit Reporting Act: Frequently Asked Questions*, by Angie Welborn and Loretta Nott, and CRS Report RS21427, *Financial Privacy Laws Affecting Sharing of Customer Information Among Affiliated Institutions*, by Maureen Murphy.

[4] Richard Cowden, "FACT Act Affiliate-Sharing Regulations Likely to Be Separate From FCRA Rules," *Daily Report for Executives*, Feb. 11, 2004, p. A-32.

[5] The Fed restricts lines of business that may be affiliated through bank holding companies, including their financial holding company form, in 12 C.F.R. Part 225, "Regulation Y."

services. Risk of collapse of securities, insurance, and other affiliated businesses evoking deposit insurance, lender-of-last resort, or outright appropriation to cover bank losses becomes less likely. Flows of information between banking and nonbanking affiliates, or as in the Fair Credit Reporting Act, affiliated entities even if no bank is involved, are limited to preserve competition and privacy concerns. A bank or securities affiliate may also provide advice to an investment company, even without ownership. Regulators have warned bank-based organizations against contributing banking resources to advised funds.

Legislative and Regulatory Actions

Beginning in the 1970s, a scramble for funds encouraged businesses ranging from banks to real estate to manufacturing to affiliate with nontraditional financial firms, taking market shares from regulated U.S. banks. Regulatory and statutory reactions may have peaked in 1982.[6] **Table 1** summarizes the basic developments by which Congress, states, and regulatory bodies have changed relevant affiliation relationships, increasing or limiting their extent. Continuing congressional debate involves whether GLBA allows affiliation of banking with real estate activities.[7] Current congressional activity questions the extent to which affiliates of national banks, such as mortgage company subsidiaries, are subject to the Comptroller of the Currency's preemption of state laws.[8]

Table 1. 100-Year Time Line of Affiliation Environment of Banking

Years	Action	Affiliation Change
1906-1907	Many state laws	Separated life insurance from commercial and investment banking.
1910-1929	State banking practice, 1927 McFadden Act	Securities affiliates of state and national banks became prominent.
1933	Banking Act of 1933: four sections are known collectively as the Glass-Steagall Act (GSA)	Defined affiliate and holding company arrangements for Federal Reserve member banks. Added Section 23A to Federal Reserve Act, limiting member bank transactions with affiliates. Outlawed ties between commercial and investment banking. Section 20 prevented Federal Reserve member banks from affiliating with companies "engaged principally" in underwriting or dealing in securities. Section 32 prevented their affiliations with securities firms via interlocking directorates.

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[6] CRS Report RL31981, *Industrial Loan Companies/Banks and the Separation of Banking and Commerce: Legislative and Regulatory Perspectives*, by William D. Jackson, and CRS Report RS21188, *Enron's Banking Relationships and Congressional Repeal of the Glass-Steagall Act Separating Bank Lending from Investment Banking*, by William D. Jackson.

[7] CRS Report RS21104, *Should Banking Powers Expand Into Real Estate Brokerage and Management?*, by William D. Jackson.

[8] CRS Report RL32197, *Preemption of State Law for National Banks and Their Subsidiaries by the Office of the Comptroller of the Currency*, by M. Maureen Murphy.

Years	Action	Affiliation Change
1956	Bank Holding Company Act of 1956 (BHCA)	Prohibited affiliations of nonbanking entities with companies controlling two or more banks. Federal Reserve could allow affiliations "...closely related to the business of banking...." Douglas Amendment prevented multi-bank affiliations; containing holding company banks inside state lines.
1968	Savings and Loan Holding Company Act of 1968	Restricted affiliations for holding companies owning two savings and loan associations. Exempted control over one ("unitary") association.
1969	National Association of Insurance Commissioners	Model Insurance Holding Company Act for states, like BHCA but allowing nonfinancial affiliations.
1970	Bank Holding Company Act Amendments of 1970	Prohibited nonbanking affiliations for a holding company owning one bank. Prohibited banks from tying services, reciprocity, and exclusive dealing arrangements with customers generally.
1970	New York Stock Exchange Rule Change	Member broker/dealer firms could sell their own stock to the public, allowing affiliates directly or via holding companies in many business lines.
1974-1975	Losses in Bank Affiliates	Real estate investment trusts associated with banks weakened by economic conditions. Banks and their holding companies took large losses.
1978	International Banking Act of 1978	Subjected foreign bankers in U.S. to BHCA affiliation restrictions.
1980s	Comptroller of the Currency and Federal Reserve Rulings	Permitted affiliations of limited-service "discount broker" securities firms with banks.
1982	Garn-St Germain Depository Institutions Act of 1982	Allowed affiliation involving savings and loan associations, not only real estate but also industry ownership. Prevented most insurance affiliations for banks; contained Banking Affiliates Act of 1982 restricting transactions.
1982	Comptroller of the Currency Chartering	Allowed nationally-chartered "nonbank banks" to offer credit cards and other services, in affiliation with financial and industrial firms.
1982	Bank Export Services Act	Allowed bank holding companies to invest in export trading company affiliates.
1982	Federal Deposit Insurance Corporation Policy Statement	State-chartered banks not members of Federal Reserve could affiliate with full-service securities companies, declared as not covered by GSA.
1986-1988	Federal Reserve Rulings	Authorized bank holding company affiliates to provide joint investment advice and brokerage.
1987	Federal Reserve "Section 20 Subsidiaries" Ruling	Allowed bank holding company subsidiaries to underwrite municipal revenue bonds, commercial paper, and asset-backed securities.

Years	Action	Affiliation Change
1987	Competitive Equality Banking Act of 1987	Forestalled affiliations of nonbank banks with nonfinancial firms. Put moratorium against new banking affiliations in securities, insurance, and real estate. Added Section 23B to Federal Reserve Act, restraining nature of transactions with affiliates. Exempted industrial banks from BHCA, allowing commercial affiliations.
1989	Federal Reserve "Section 20 Subsidiaries" Ruling	Extended 1987 authority to corporate bonds in affiliates within bank holding companies.
1989	Financial Institutions Reform, Recovery, and Enforcement Act of 1989	Tightened affiliation/investment qualifications affecting savings and loan associations.
1990	Federal Reserve "Section 20 Subsidiaries" Ruling	Extended 1987 authority to equity dealings (for JP Morgan.)
1991	Federal Deposit Insurance Corporation Improvement Act of 1991	Gave Federal Deposit Insurance Corporation veto over state-allowed subsidiaries of banks. Prohibited state bank affiliation with insurers.
1994	Riegle-Neal Interstate Banking and Branching Efficiency Act	Repealed 1956 Douglas Amendment to BHCA, allowing holding companies' bank affiliates across state line boundaries.
1996	Comptroller of the Currency Regulation	Allowed subsidiaries of national banks to expand activities, including insurance and securities.
1997	Federal Reserve "Section 20 Subsidiaries" Ruling	Lessened restrictions on affiliation relationships and transactions involving member banks and securities operations. Exempted holding company affiliates from certain anti-tying rules.
1998	Federal Reserve Ruling on Citigroup Business Activities	Allowed insurance firm Travelers to acquire Citicorp, to become bank holding company Citigroup. Conditioned on divestiture of then-impermissible affiliations.
1999	Gramm-Leach-Bliley Act, Title I	Repealed Sections 20 and 32 of GSA: allowed affiliations of banks, insurance companies such as Travelers, securities businesses, etc. via financial holding companies or investment bank holding companies. Merchant banking investments of financial holding companies allowed nonfinancial affiliations. Authorized bank subsidiaries in these businesses, except insurance underwriting, title insurance, merchant banking, and real estate. Future expansion of affiliations via rulemaking.
1999	Gramm-Leach-Bliley Act, Title IV	Disallowed affiliations of savings and loan holding companies for a single institution ("unitary thrift holding companies") with nonfinancial businesses.
2002	Comptroller of the Currency Ruling	National banks could purchase bonds convertible into equity (stock).

Years	Action	Affiliation Change
2002-2004	Citigroup Business Activities	Divested most insurance business lines of Travelers previously acquired.
2003	Federal Reserve Regulation	Gave bank holding company affiliates much ability to process, store, and transmit nonfinancial data.
2003-2004	Federal Reserve Rulings	Gave financial holding company affiliates authority to take and make delivery of physical commodities.
2004	Comptroller of the Currency Regulation	Preempted many state laws governing national banks and their affiliates (subsidiaries).
2005	Comptroller of the Currency Ruling	Allowed national banks to engage in electricity derivative activities, beyond oil and gas derivatives.

Source: Congressional Research Service, The Library of Congress.

Community Reinvestment Act Regulation of Affiliates?

Regulators have shown concern over affiliates of banks that may be engaging in undesirable ("predatory") lending practices, in proposed regulatory language. Through evaluations under the Community Reinvestment Act of 1977 (P.L. 95-128, Title VIII), they report bankers' socially graded performance, largely in lending. They may penalize banks whose affiliates engage in "discriminatory, illegal, or abusive credit practices," by reducing the bank's Act ratings . They may require disclosure of bank loans purchased by affiliates.[9]

Tying?

Banks and their affiliates cannot require customers to "tie" purchases of banking and nonbanking (securities, etc.) services together, nor give special treatment to some customers through affiliate arrangements. Customers may, however, voluntarily request such bundling of financial services. The Fed grants certain exemptions from its rules that otherwise limit cross-selling of banks with affiliates. It has sanctioned at least one holding company for direct tying. A trade group found that banks frequently condition corporate credit on purchase of other services.[10] In the other direction, the Comptroller of the Currency found that the appearance of "tying" was a permissible, understandable phenomenon.[11] The Government Accountability Office (GAO; formerly named General Accounting Office) examined whether banks tie credit to securities underwriting services, but could not prove occurrences. GAO suggested stronger enforcement of laws.[12]

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[9] See CRS Report RS20197, *Community Reinvestment Act*, by William D. Jackson.

[10] Association for Financial Professionals, *2004 Credit Access Survey: Linking Corporate Credit to the Awarding of Other Financial Services*, June 2004, 15 p.

[11] Office of the Comptroller of the Currency, *Today's Credit Markets, Relationship Banking, and Tying* , Washington: Sept. 2003.

[12] U.S. General Accounting Office, *Bank Tying: Additional Steps Needed to Ensure Effective Enforcement of Tying Prohibitions*, GAO Report GAO-04-03, Oct. 20, 2003.

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CRS Report for Congress

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Merchant Banking: Mixing Banking and Commerce Under the Gramm-Leach-Bliley Act

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Summary

A power Congress granted to banking ("financial holding") companies in the Gramm-Leach-Bliley Act is merchant banking. It allows them to invest in nonfinancial businesses for a share of the profits. Other countries widely practice merchant banking. Its implementing agency, the Federal Reserve, has seen limited activity under its implementing regulation. Congress has paid attention to these investments because this application of the law, allowing merchant banking, has been controversial. The entire question of the separation of banking and commerce, of which merchant banking forms one part, has come under scrutiny in congressional hearings. This report will be updated as developments warrant.

Authorization

The Gramm-Leach-Bliley Act (GLBA)[1] eased affiliations among banks, securities firms, and insurance companies, under a holding company structure. GLBA repealed the Glass-Steagall Act,[2] which, originating in the aftermath of securities market troubles associated with banking practices, had separated the securities/investing business from the banking business since 1933. GLBA created financial holding companies (FHCs) to own ("hold") banks and other financial enterprises. The Federal Reserve (Fed) regulates FHCs under the Act. GLBA allows FHCs to make equity investments in nonfinancial companies conditional upon their controlling either (1) a securities company, or (2) an investment advisor to an insurance company inside the FHC.[3]

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[1] P.L. 106-102, 113 Stat. 1338 — 1481, Nov. 12, 1999.

[2] Sections 20, 21, 26, and 32 of The Banking Act of 1933, P.L. 73-66, June 16, 1933.

[3] 12 U.S.C. 1843(k).

What Is Merchant Banking?

Merchant banking mixes banking with commerce. The term comes from European practices, in which *bankers* financed foreign trade and other high risk ventures undertaken by *merchants* such as ship owners and importers for a share of the profits, rather than receiving interest returns from lending. Taking a stake in a venture made it merchant banking. Potentials for losses and conflicts of interest made it become generally illegal for commercial banks in America, via the 1933 Glass-Steagall Act. Other investors remained free to finance businesses through any combination of debt and equity. Congress restated limits on banking investments in the Bank Holding Company Act of 1956[4], and its amendment in 1970.[5]

Whether to allow greater banker ties with operating nonfinancial firms, and if so, under what rules, were major issues in the congressional debate that produced GLBA in 1999. Congress recognized that some forms of ownership of commercial firms by banking organizations are the equivalent of providing direct financing to small businesses. Before GLBA, banking companies could use equity-investing authority only through Small Business Investment Companies (SBICs) and other limited powers. Bank holding companies could own noncontrolling interests in nonfinancial companies: not more than 5% to 10% of voting securities. GLBA allows FHCs into the high-risk, high-reward private equity market. Beyond our borders, 32 countries allow banks into that market, although five countries do not, and seven permit it only with restrictions.[6]

What Is the Private Equity Market?

The *public* equity (stock) market is generally the one in which anyone can buy or sell securities. Many requirements of "openness" in trading and reporting apply in the public market. By contrast, large-scale investors fund the restricted *private* equity market: pension funds, endowments, foundations, insurance companies, banks, and wealthy individuals. About a third of the private equity market is venture capital investment in startup and early-stage firms, with the rest leveraged buyouts (LBOs) and investments in existing mid-sized companies. LBOs are transactions in which private investors buy out a company using debt financing, which "leverages" capital they put into the deal. The organized private equity market is tiny compared with the public market.

Equity investing is the highest-risk part of a firm's financing, because it has the lowest priority of claim on the cash flow of the company whose equity financiers purchase. Significant risks exist that products or strategic plans of start-up companies will prove unworkable. For LBOs, risks also come from high levels of debt that magnify profits and losses for owners. Private equity investments are not registered for public sale. The investments are necessarily in small to medium-sized businesses, rather than

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[4] P.L. 84-511, May 9, 1956.

[5] P.L. 91-607, Dec. 31, 1970.

[6] Institute of International Bankers, *Global Survey 2004*, p. 14, [http://www.iib.org/gs2004.pdf].

the larger blue chips of higher capitalization and greater predictability of earnings, consequently requiring greater anticipated returns to compensate for the risks.

Investors generally hold private equity investments from three to seven years or longer. They may exit private equity by (1) selling a stake in a company, (2) arranging a merger or acquisition, or (3) arranging to take the company public. Returns on private equity are highly volatile and cyclical, reflecting changing conditions in the public equity and corporate mergers market. With the general economic and financial slowdown at the start of the century, activity in venture capital and similar investments softened.

New Opportunities for Merchant Banking

Many securities and insurance firms have long been involved in merchant banking. European financial firms have been making these deals for centuries In America and abroad, securities companies created private equity funds (often as limited partnerships.) This arrangement allows them to share the risks and rewards efficiently with other investors. GLBA granted American commercial bankers more opportunities for deal-making like those of their Wall Street and foreign counterparts.

Under GLBA, FHCs — but not banks or bank subsidiaries — can engage in merchant banking activities until 2004. Thereafter, a regulatory change could allow banks to own merchant banking subsidiaries, if the Office of the Comptroller of the Currency (OCC), which regulates national banks, and the Fed concur.

Many bankers have adopted the FHC structure, despite general expectation that only banking firms already active in the securities business would be interested. Even banking companies with no current merchant banking opportunities are converting to FHCs.

Regulatory constraints on bankers in the field are two: (1) capital requirements, restricting investments based on capital or dollar amounts, and (2) operational requirements, restricting management and sale of the investments. Bankers have felt that they must compete with investors not facing these constraints, thus, GLBA may not have provided them enough freedom to compete in the new field.

Capital Requirements

Capital requirements, a principal form of financial regulation, remain contentious. "Core" capital is what shareholders in a banking company have at stake in the business, which they stand to lose in case of failure. Obtaining core capital is more expensive than other means of raising money, so bankers seek to hold as little of it as possible. Minimum capital requirements protect against losses that might otherwise fall back onto the banks, federal deposit insurance, or the economy. If rules force bankers to operate with greater capital than they would otherwise choose, the rules in effect "tax" affected financial activity. Essentially, uses of funds (loans and investments) come to have a higher cost, should the sources of the funds be forced to contain a larger mix of capital. Net earnings then become lower although returns become less risky, with the extra capital.

In its original regulation, the Fed would have required FHCs to have core capital of 50 cents against every dollar of merchant banking investments. For bankers already holding private equities, the standard would have multiplied their requirement from the pre-GLBA 8% minimum general capital/asset ratio. The jump would have sharply reduced earnings on investments, including SBICs. The proposal would have directly affected banks, as the OCC and the Federal Deposit Insurance Corporation needed to issue a consistent rule for banks' own investments, made under authority other than GLBA.

Bankers questioned whether capital requirements should be high, since some banks had done equity financing safely with less for years. Criticism also arose over competition, because nonbanking firms would not face these restraints. Many of the latter operate with low capital ratios and have great freedom to do deals. House and Senate Committee hearings in June 2000 [7] focused on redrawing the regulation in more banker-friendly ways.

The bank regulators proposed standards in January 2001 that set a three-tiered sliding capital deduction running from 8% to 25%. That rule would still have raised capital requirements from pre-GLBA amounts, yet was less costly than the earlier proposal. Investments in SBICs would not have to meet the new requirements unless they comprised more than 15% of the owning institution's capital. Regulators defended the revised proposal on three main grounds. First, roughly a quarter to a third of individual deals, and a fifth of portfolio investments overall, lose money. Second, financial risks increase as equity investments account for larger portions of financial firms' activities. Third, pre-GLBA capital values such as 8% were low precisely because bank equity investments were small at the time, and thus did not pose large-dollar amounts of risk.

Operational Requirements for Resale and Management Control

Under GLBA's wording, merchant banking investments must meet two operational requirements. (1) FHCs may hold individual investments only "for a period of time." (2) FHCs may not routinely manage or operate commercial firms except as necessary or required to obtain a reasonable return on the investments upon "sale or disposition."

The Fed set the "period" requirement in a final rule of January 2001[8] at 10 years for direct investments, and 15 years for investments through private equity funds. Individual investments can receive exemptions, but owners must apply to the Fed before the expiration date. The Fed codified the law's prohibition against actively managing commercial firms, and required its approval for a FHC to seize managerial control of a company in which it has invested to protect its interests. It restricted merchant banking investments to 30% of FHC core capital, or 20% after excluding private equity funds. These percentage restrictions are not costly capital deductions, but are quantity restraints effectively limiting investments to small proportions of total assets. (Example: a FHC has 10% core capital supporting its entire holdings, $10 per $100 of total assets. It may invest perhaps 20% to 30% of the $10 in merchant banking assets: $2 to $3.)

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[7] U.S. Congress, Senate Committee on Banking, Housing, and Urban Affairs. *Merchant Banking Regulations Pursuant to the Gramm-Leach-Bliley Act of 1999*, hearing, 106th Cong., 2nd sess., June 13, 2000 (Washington: GPO, 2001), 165 pp.

[8] 12 C.F.R. 225.172.

Industry commentators criticized the period requirement on two grounds. First, that the time frames were too short, encouraging "fire sales" as the limits approached. Second, that the Fed's extension of time for sale process is not appropriate, because normal bank regulatory processes better address timing problems. Regulators defended the periods because owners rarely hold such investments beyond five years, and finite holding periods allow FHCs to plan divestiture strategies. Industry views criticized the management prohibitions as interfering with normal business practices protecting investors. The Fed responded that restrictions reflect GLBA's limits on mixing banking and commerce.

Another hearing, before two subcommittees of the House Financial Services Committee, examined the redrawn merchant banking regulations on April 4, 2001. Concerns noted above over capital and operational restrictions resurfaced.[9]

Regulation as Issued

The Fed and other regulators issued the final rule on capital, effective April 1, 2002.[10] It contains a sliding scale of capital charges for investments in nonfinancial firms. These deductions operate in the opposite direction of the 20/30% quantity limits. Their limit is the ratio of specified risky assets to supporting capital. **Table 1** shows its capital charges, which are essentially those proposed in January 2001.

Table 1. Capital Deduction for Nonfinancial Equity Investments

Aggregate adjusted carrying value of all nonfinancial equity investments held directly or indirectly (as a % of core capital)	Deduction from core capital (as a % of the adjusted carrying value of investment)
Less than 15%	8%
Next 10%	12%
Amount Over 25%	25%

Source: Rob Garver, "Pay to Play," *The American Banker*, Dec. 11, 2001, p. 4.

The significant exceptions to it are two: (1) Investments made before March 13, 2000, need not meet the new capital rule, although counted in the basket of all covered investments. (2) SBIC investments become exempted if they amount to no more than 15% of core capital. Thus, long-standing investments are relieved, while new investments face higher requirements. The financial-form "tax" on covered investments is progressive, to discourage increasing risk-taking. The higher the capital set aside, the more expensive it becomes to fund the covered investments. (Example: an institution must raise capital, if it falls into the second tier of Table 1, of $12 per $100 of these

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[9] "Lawmakers Explore Opportunities to Soften Regulations Implementing Merchant Banking," *Daily Report for Executives*, April 5, 2001, p. A-34.

[10] U.S. Department of the Treasury; Federal Reserve System; Federal Deposit Insurance Corporation, "Capital; Leverage and Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance; Nonfinancial Equity Investments; Final Rule," *Federal Register*, vol. 67, no. 17, Jan. 25, 2002, pp. 3783-3807.

investments, more than traditional bankers' capital of $6/$100 on assets generally and the $6/$100 regulatory capital requirement for securities broker/dealers).[11]

Did It Work Out?

Prominent banking companies faced write downs in their private equity portfolios after in the burst-bubble year 2000, just after passage of GLBA. Equity investing cost seven large banking companies $4.3 billion in 2001, and $2.13 billion in 2002. Those few firms represent nearly 90% of the equity investments banking companies have made.[12] Newer data on activity of U.S.-based FHCs in this field, as reported to the Federal Reserve, appears in **Table 2.** According to these data, merchant banking has remained a small share of the private equity market,[13] not to mention the national financial economy.

Table 2. Number and Merchant Banking Assets of Financial Holding Companies Reporting Merchant Banking Activities

Number of FHCs:	12/31/00	12/31/01	12/31/02	12/31/03	6/30/04
— Domestic	11	19	12	14	15
— Foreign	9	10	14	15	18
Assets Reported ($ billion)	$9.5	8.3	9.1	10.7	12.0

Source: Communication from the Division of Banking Supervision and Regulation of the Board of Governors of the Federal Reserve System to William Jackson, Oct. 14, 2004.

Prospects

Private equity returns for all investors have since rebounded from negative territory, and have continued to exceed those of major stock market indexes over several years.[14] The prospect of such excess returns may stimulate bankers' merchant banking, further mixing banking and commerce beyond its limited extent of recent years.

Congress may continue to explore connections between investments of banking companies, bank lending, and corporate governance. Future hearings may question whether public policy should allow bankers to make equity-type investments, including those in merchant banking, should Enron-like collapses involving the banking system come to recur.

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[11] "FDIC Board Adopts Final Rule on Investments in Nonfinancial Firms," *Daily Report for Executives.*, Dec. 11, 2001, p. A-1; and, Rob Garver, "Reaction to Capital Rule," *The American Banker*, Dec. 11, 2001, pp.1, 4.

[12] Barbara Rehm, "Banks Report Less Pain from '02 Equity Investments," *The American Banker Online*, January 29, 2003.

[13] Board of Governors of the Federal Reserve System, *Report to the Congress on Financial Holding Companies under the Gramm-Leach-Bliley Act*, November 2003, p. 39.

[14] According to the National Venture Capital Association [http://www.nvca.org].

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Financial Institutions and Markets: Major Federal Statutes

November 16, 2004

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Financial Institutions and Markets: Major Federal Statutes

Summary

This report provides brief summaries of the major federal laws affecting financial institutions and markets. Arrangement is chronological according to the order of original enactment, with divisions into three periods. The first period begins with the Civil War era and includes the creation of national banks and the Federal Reserve System. The second period encompasses the New Deal and its aftermath, during which a wall was erected and reinforced between commerce and banking. The third or current period is characterized by statutes designed to modernize the financial services industry and, consistent with safety and soundness, eliminate barriers to the provision of nationwide integrated financial services. In the interest of national security, criminal law enforcement, and protecting personal privacy, the current period is also marked by increased federal regulation of customer information maintained by financial institutions.

For CRS Reports on current topics, consult the Financial Sector subheading under Current Legislative Issues on the CRS home page: [http://www.crs.gov].

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Financial Institutions and Markets[1]: Major Federal Statutes

Background[2]

The history of federal legislation significantly affecting banking, securities, capital markets, and financial services in general, may conveniently be divided into three chronological periods: Civil War to New Deal; New Deal Era; and, 1956 to the present. Examination of these laws reveals that the increasing role of the federal government in overseeing and protecting financial services has been primarily in response to turmoil or financial distress in the economy. For example, landmark legislation brought a greater federal presence into the financial arena to moderate the financial stress and adversity of the Civil War, the financial Panic of 1907, the Great Depression of the 1930's, and the savings and loan crisis of the 1980's. Much of this legislation persists, albeit in amended form, and can be viewed as the foundation of the structure under which the financial services industry operates today.

Pre-New Deal legislation set up basic, continuing, entities, including the national banking system; the Federal Reserve System; and, in 1932, the Federal Home Loan Bank System. New Deal era legislation is probably most striking for its rigid separation of banking, securities, and insurance businesses, and for setting up major parts of the federal financial safety net, particularly deposit insurance. More recent legislation has permitted reintegration of these functions, allowing firms to compete across political boundaries, and in nontraditional businesses. The overall aim has been to produce a more level competitive "playing field" and continue to maintain safety. The effect has been generally to produce an increasingly more uniform structure of U.S. financial providers. Especially in the last two decades, laws have progressively "deregulated" New Deal or earlier controls over geography, pricing, and products of banking and financial services providers. The growing complexities of financial transactions have prompted financial services companies to maintain data bases containing large amounts of information on their individual customers, raising a potential for improper use. This has prompted increasing federal regulation of customer financial information to protect customer privacy, deter criminal activity, and in the interest of national security.

The laws cited are those chosen for their historical significance, their present importance in the federal scheme of regulating financial services businesses, or their recent enactment.

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[1] For CRS Reports on current topics, consult the Financial Sector subheading under Current Legislative Issues on the CRS home page: [http://www.crs.gov].

[2] The author of this section is William Jackson, Specialist in Financial Institutions, Government and Finance Division, Congressional Research Service.

Pre-New Deal Legislation

National Bank Act. 12 U.S.C. §§ 21-215b. This act establishes the national banking system and prescribes a comprehensive system of regulation for federally chartered banks, under the supervision of the Comptroller of the Currency within the U.S. Treasury Department. It was originally enacted during the Civil War by the National Bank Act of 1863 (Currency Act) (12 Stat. 665), and was significantly amended by the National Bank Act of 1864 (13 Stat. 99). Congress enacted the original measure to assist the Government in paying Civil War debts, to provide for chartering banks by the Federal Government, and to provide a more uniform national currency (as bank notes) and safer banks based on their holding U.S. Government bonds. The 1864 legislation included major amendments, among them requiring that national banks be incorporated and initiating a system of examining national banks. Under the National Bank Act, the federal government, through the Office of the Comptroller of the Currency (OCC), charters and regulates national banks, granting them powers and subjecting them to federal supervision.

Federal Reserve Act. 12 U.S.C. §§ 221-552. Originally enacted in 1913 and amended substantially since then, this legislation provides the authority for the Federal Reserve System — the Board of Governors of the Federal Reserve System (Federal Reserve Board), the 12 Federal Reserve Banks, and the Federal Open Market Committee. To prevent recurrence of another financial panic such as that of 1907, Congress designed "the Fed" to provide a better national payments system, including a national currency through its issuance of Federal Reserve notes. Another vital component of this payment system is the Federal Reserve's services to its member banks. These include clearing checks and other payments and lending to cash-short banks. The Board of Governors also exercises authority under various other federal laws, centralizing significant regulatory power over state banks that choose to join it as members, large financial conglomerates, and many international banking organizations operating on a nationwide basis.

Federal Home Loan Bank Act. 12 U.S.C. §§ 1421-1449. Originally enacted in 1932, this legislation established the Federal Home Loan Bank System to provide federal support for home mortgage lending. The Federal Home Loan Bank System parallels, for thrift institutions, such as the early savings and loan or building and loan associations, the Federal Reserve System for commercial banks. The Home Owners' Loan Act expanded it in 1933 to authorize federally-chartered thrift institutions. Originally, the Federal Home Loan Bank Board regulated the 12 Federal Home Loan Banks, and was the chartering authority for federal thrifts. In its capacity as head of the Federal Savings and Loan Insurance Corporation, the Bank Board provided a measure of federal regulation for state-chartered thrifts.

Today, after the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989, and the abolition of the Federal Home Loan Bank Board, the system's 12 Federal Home Loan Banks are subject to the authority of the Federal Housing Finance Oversight Board. The Office of Thrift Supervision in the Department of the Treasury charters and regulates federally-chartered thrifts and provides federal supervision for state-chartered thrifts. See Home Owner's Loan Act, Financial Institutions Reform, Recovery, and Enforcement Act.

New Deal Legislation

Home Owners Loan Act of 1933. 12 U.S.C. §§ 1461-1470. This legislation was the authority for the creation and regulation of federal savings and loan associations. Originally chartered by the Federal Home Loan Bank Board as mutually owned and managed institutions owned by their depositors, federal savings and loan associations were largely restricted to residential mortgage lending. Today's federal savings associations are chartered and regulated by the Office of Thrift Supervision of the Department of the Treasury (OTS).

Banking Act of 1933. 48 Stat. 162. This early legislation of President Roosevelt's New Deal included many amendments to the Federal Reserve Act and the National Bank Act including the creation of the Federal Open Market Committee, which regulates and coordinates the purchase and sale of securities by Federal Reserve Banks. Four sections of the Banking Act of 1933, §§ 26, 20, 21, and 32, are known as the Glass-Steagall Act. Collectively, they forced a separation between the banking and securities businesses. Other parts of the legislation allowed national banks to open branches under limited conditions and began federal deposit insurance for banks under § 12B of the Federal Reserve Act before the enactment of the Federal Deposit Insurance Corporation Act in 1950.

Federal Deposit Insurance Act. 12 U.S.C. §§ 1811-1832. Enacted in the Banking Act of 1933 as part of the Federal Reserve Act, Congress made this legislation a separate law in 1950, 64 Stat. 873. The legislation authorizes the Federal Deposit Insurance Corporation (FDIC) to provide insurance for deposits held in state and national banks and branches of foreign banks in the United States. In enacting this legislation, the federal government took on the role of protecting depositors, banks, and the national money stock (and, thus, the economy) against losses from bank failures. Enactment of this legislation stopped the cascading string of bank failures of the Great Depression. Under this legislation, the FDIC is the primary federal regulator of federally-insured state-chartered banks and, as such, has authority to examine and set safety and soundness standards for them and, to some extent, for federally chartered institutions.

Securities Act of 1933. 15 U.S.C. §§ 77a-77aa. The Securities Act of 1933 has two objectives: (1) to provide investors with financial and other information concerning securities offered for public sale; and (2) to prohibit misrepresentation, deceit, and other fraudulent acts and practices in the sale of securities. The act provides for the registration of securities offered for sale in interstate commerce or through the mail and prohibits fraud in the sale of securities. It requires publicly traded companies to provide prospectus disclosures that permit investors and others to evaluate the worth of the stocks and bonds being sold. Its anti-fraud provisions apply to specified securities sold to the public even when the dealers that are offering them need not register them. Since 1934, the Securities Act of 1933 has been enforced by the Securities and Exchange Commission.

Securities Exchange Act of 1934. 15 U.S.C. §§ 78a-78kk. This legislation created the Securities and Exchange Commission (SEC) to enforce the federal securities laws. With the enactment of this legislation, businesses and their financial operations became subject to federal disclosure standards, thus, moving beyond state incorporation and investor protection standards. This act brought many securities markets under uniform federal regulation. It extended the registration and disclosure requirements of the Securities Act of 1933. Under the 1934 Act, every company with securities listed and registered for public sale on a national exchange and other companies meeting certain asset or number-of-shareholder criteria must file a registration application with the exchange and with the SEC. The legislation defines SEC's authority with respect to such matters as national exchanges, proxy solicitations, insider trading, margin trading, and registration of stock exchanges and broker-dealers in the over-the-counter market. It defines certain rules for corporate governance, including registration of securities listed on exchanges and publication of financial reports.

National Housing Act of 1934. 48 Stat.1246. This legislation created the Federal Housing Administration and established deposit insurance for savings and loan associations, through the Federal Savings and Loan Insurance Corporation (FSLIC). The Financial Institutions Reform, Recovery, and Enforcement Act abolished FSLIC in 1989 after widespread failures in the savings and loan industry. Currently, deposit insurance for savings and loan associations is provided through the Federal Deposit Insurance Corporation.

Federal Credit Union Act. 12 U.S.C. §§ 1751-1790. This legislation, originally enacted in 1934, provides a comprehensive system for the chartering and supervision of federal credit unions. Congress has transferred oversight of credit unions to various executive branch agencies over the years.

Currently, the National Credit Union Administration (NCUA) regulates credit unions. This agency oversees deposit insurance for both federal credit unions and state-chartered credit unions through an amendment in 1970. In 1979, P.L. 95-630 gave the NCUA oversight of a Central Liquidity Facility providing short-term federally sponsored funding to credit unions, as a lender of last resort conceptually similar to the Federal Reserve Banks and the Federal Home Loan Banks. Credit unions, which are cooperative in nature and, thus, not subject to corporate taxes, were initially very small and state-chartered. Federal support and various amendments to the Federal Credit Union Act have increased their powers and allowed them to become safer, more bank-like, and larger institutions serving their members. They remain limited in some of their services and customer bases.

Investment Company Act. 15 U.S.C. §§ 80a to 80a-52. Enacted in 1940, this legislation provides the Securities and Exchange Commission with authority to regulate investment companies, i.e., companies in the business of investing, reinvesting, or trading in securities, such as mutual funds or investment trusts, that offer their own securities to the public. This act initiated federal oversight over state-incorporated prototypes of mutual funds, whose weaknesses had become apparent in the Depression, by requiring that these companies register their securities, disclose policies and procedures, maintain adequate capital, and avoid insider transactions.

Investment Advisers Act of 1940. 15 U.S.C. §§ 80b to 80b-20. This legislation provides for the registration and regulation of investment advisors, i.e., persons who, for compensation, engage in the business of advising others, directly or through publications or writings, as to the value of securities or the advisability of investing in or selling securities. Its enactment completed the circle of federal regulation over most securities businesses especially when, in 1970, P.L. 91-547, extended the authority that the SEC exercised over broker-dealers to investment advisers.

McCarran-Ferguson Act. 59 Stat. 33, 15 U.S.C.§§ 1011-1015. Originally enacted in 1945, this legislation assigns the regulation of the business of insurance to the states, with an exception for Acts of Congress that specifically relate to insurance. In *United States v. South-Eastern Underwriters Association,* 322 U.S. 533 (1944), in determining whether a federal antitrust law was applicable to a group of insurance companies, the Supreme Court ruled that insurance was commerce and, thus, subject to regulation by Congress. McCarran-Ferguson was enacted in response to this decision, which had the potential to federalize the business of insurance. At the time, insurance was viewed more as a protective service business than as a "financial" service industry.

Post-New Deal Legislation

Bank Holding Company Act. 12 U.S.C. §§ 1841-1850. Originally enacted in 1956 to cover any company controlling more than one bank, and amended in 1970 to extend to one-bank holding companies, this legislation subjects companies controlling banks to a scheme of regulation administered by the Board of Governors of the Federal Reserve System. It prohibits such companies from engaging in certain non-banking activities. It provides centralized regulation over mixing of banking and commerce that was intended to increase the safety, soundness and competitive position of operations that had previously been the subject of state regulation alone. It became a template for financial modernization embodied in P.L. 106-102, the Gramm-Leach-Bliley Act.

Bank Secrecy Act of 1970/Currency and Foreign Transactions Reporting Act. Titles I and II of P.L. 91-508, including 12 U.S.C. §§ 1829b, and 1951 - 1959; 31 U.S.C. §§ 5311 et seq. The Bank Secrecy Act of 1970 and its major component, the Currency and Foreign Transactions Reporting Act, 31 U.S.C. §§ 5311 et seq., require reports and records of transactions involving cash, negotiable instruments, or foreign currency and authorize the Secretary of the Treasury to prescribe regulations to ensure that covered entities maintain adequate records of transactions that have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings. Violations of the regulations are subject to civil and criminal penalties. Congress thus extended federal oversight of financial arrangements to individual transactions when in the national interest.

Fair Credit Reporting Act. 15 U. S.C. §§ 1681-1681v. Originally enacted in 1970, this legislation regulates the credit reporting industry by prescribing standards that address information collected by businesses that provide information used to determine eligibility of consumers for credit, insurance, or employment. It imposes requirements for accuracy, limits purposes for which such information may be disseminated, prescribes certain access rights, and includes civil penalties for its violation. Overall enforcement authority resides with the Federal Trade Commission, but other federal agencies, including those that regulate financial institutions, are authorized to enforce the act with respect to persons under their jurisdiction. Consumer reporting agencies and users of information who willfully or negligently fail to comply with the act may be subject to civil liability.

Community Reinvestment Act of 1977. 12 U.S.C. §§ 2901-2907. This legislation requires federal banking regulators, in connection with an examination of a depository institution (bank, savings institution, or holding company for either), to assess the institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, and to consider that assessment when the institution applies for a deposit facility (branch, relocation of offices, change of corporate control such as merger and acquisition).

International Banking Act of 1978. 12 U.S.C. §§ 3101-3108. This measure, as amended by the Foreign Bank Supervision Enhancement Act of 1991, 105 Stat. 2286, provides for the chartering and regulation of foreign bank operations in the United States, permitting federal or state chartering of foreign bank branches and agencies, and regulation by the Board of Governors of the Federal Reserve System.

Financial Institutions Reform, Recovery, and Enforcement Act of 1989. 103 Stat. 183 (P.L. 101-73). This omnibus legislation, consisting of 12 titles, restructured the deposit insurance system; transformed the regulatory structure of savings associations by eliminating the Federal Home Loan Bank Board; reformed the Federal Home Loan Bank System, including eliminating the Federal Savings and Loan Insurance Corporation; prescribed rules for administering a depository institution in receivership or conservatorship; and expanded civil and criminal enforcement authority for depository institution offenses.

Federal Deposit Insurance Corporation Improvement Act of 1991. 105 Stat. 2236 (P.L. 102-242). This omnibus legislation provides expanded enforcement authority for federal banking regulators, including prompt corrective regulatory action to enforce capital standards on depository institutions to ensure institutional safety and soundness. It has meant greater uniformity of chartering, regulation, and supervision of both commercial banks and savings associations. It provides for greater federal supervision of state banks and state savings associations through the Federal Deposit Insurance Corporation.

Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994. 108 Stat. 2338 (P.L. 103-328). This legislation provides the authority and sets the framework for bank holding companies to acquire banks outside their home states and for banks to acquire branches on an interstate basis. It overrode long-standing state prohibitions against nationwide banking, which had already been weakening via regional interstate banking compacts.

Gramm-Leach-Bliley Act. 113 Stat. 1388 (P.L. 106-102). This legislation authorizes financial holding companies and eliminates many state and federal barriers to affiliation among banks, securities firms, insurance companies, and other financial service providers. It provides for functional regulation by activity and thus specifies, for example, conditions under which securities activities of banking organizations are regulated by securities regulators. It sets the framework for insurance activities by banking organizations, prevents the creation of new "unitary" savings and loan holding companies mixing banking and commerce, modifies the membership criteria and capital structure of the Federal Home Loan Bank System, sets a framework for potentially establishing a National Association of Registered [Insurance] Agents and Brokers, requires certain disclosures about automatic teller machine (ATM) fees, establishes sunshine (disclosure) requirements for entities involving Community Reinvestment Act contracts with banking organizations, and includes various banking regulatory reforms. Its privacy title mandates that financial institutions disclose their privacy policies; requires them to protect the security and integrity of non-public personally identifiable information; and criminalizes obtaining customer information of financial institutions by fraud.

U.S.A. PATRIOT Act (Title III), International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001. P.L. 107-56. Congress has designed this legislation to prevent terrorists and others from using the U.S. financial system anonymously to move funds obtained from or destined for illegal activity. It authorizes and requires additional record keeping and reporting by financial institutions and closer scrutiny of accounts held for foreign banks and of private banking conducted for foreign persons. It requires financial institutions to establish anti-money laundering programs and imposes various standards on informal money transmitting businesses. It amends criminal anti-money laundering statutes and procedures for forfeitures in money laundering cases and requires further cooperation between financial institutions and government agencies in combating money laundering. It thus increases federal scrutiny of individual financial transactions and extends it to certain previously unexamined domestic and international transmitters of money, when in the national interest.

Sarbanes-Oxley Act of 2002. P. L. 107-204. Following the collapse of several major corporations, including Enron Corporation, Congress acted to protect investors and improve the reliability of corporate disclosures required under the securities laws. This legislation establishes the Public Company Oversight Board to regulate public accounting firms that audit publicly traded companies. It prohibits such firms from providing other services to such companies contemporaneously with the audit. It sets various corporate responsibility standards, including requirements that principal executive officers and principal financial officers (CEO's and CFO's) certify their publicly traded company's annual or quarterly report. The legislation authorizes, and in some instances requires, the Security and Exchange Commission (SEC) to issue rules governing improperly influencing audits, disgorgement of executive compensation related to misconduct involving accounting restatements, attorney reporting of material violations of securities laws, and securities analyst conflicts of interests. Pursuant to this law, insiders may no longer trade their company's securities during pension fund blackout periods; financial disclosure requirements are enhanced; and, there is increased authorization of appropriations for the SEC. It mandates various studies including a study of the involvement of investment banks and financial advisors in the scandals preceding the legislation and a report on enforcement actions. Also included are: whistle blower protections; new federal criminal laws, including a proscription against alteration of documents; various other enhancements of the tools to prosecute and punish securities fraud; and an extension of the statute of limitations for private securities fraud actions.

Check Clearing for the 21st Century Act. P. L. 108-100. This legislation, known as the Check 21 Act, is aimed at facilitating greater efficiency in the use of electronic processing of checks and check truncation. It permits the use of substitute checks by which a bank receiving a paper check may convert it to a form that may be processed electronically. The substitute check, rather than the original check, will be retained by the paying bank and returned to any bank customer receiving cancelled checks. The substitute check is defined to be a paper reproduction of an original paper check that contains an image of the front and back of the original check and that may be processed electronically. The legislation requires banks converting a paper check into a substitute check and other banks handling such checks to warrant the accuracy of the images and the fact that the check has not previously been paid. Such a substitute check is declared to be the legal equivalent of the original check for all purposes and all persons. The Check 21 Act includes indemnity and expedited recredit procedures to protect substitute check recipients. It does not require any bank to create substitute checks or to accept checks electronically.

Fair and Accurate Credit Transactions Act of 2003. P..L. 108-159. This legislation contains extensive amendments to the Fair Credit Reporting Act that are aimed at improving the accuracy and transparency of the national credit reporting system and preventing identity theft and assisting victims. It contains provisions enhancing consumer rights in situations involving alleged identity theft, credit scoring, and claims of inaccurate information. It requires users of consumer reports to provide certain information to consumers who are offered credit on terms that are materially less favorable than the offers that the creditor makes to a substantial portion of its consumers. Under the legislation, state laws respecting the sharing of consumer report information among affiliated companies are permanently preempted; such companies must provide consumers notice and an opt-out for sharing of such information if the receiving company uses the information for marketing purposes. Whether or not the information is used for marketing purposes, an opt-out must be provided consumers if the shared information contains anything other than experience or transaction information.

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Should Banking Powers Expand into Real Estate Brokerage and Management?[1]

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Summary

In late 2000, the Federal Reserve and the Treasury proposed to increase banking powers. They proposed allowing banking companies to engage in real estate brokerage and management, as activities that are financial in nature. The substantiative issues are the respective nature of banking and of real estate activities and the potential impact on consumers. Procedural questions involve the intent of Congress in P.L. 106-102, which delegated authority to the two agencies to issue new regulations. Treasury spending bills have forestalled any such regulations for four fiscal years, most recently in P.L. 109-115. The reintroduced Community Choice in Real Estate Act, H.R. 111/S. 98, 109th Congress, would permanently remove these real estate activities from consideration under the market-adaptive powers of the regulators. Conversely, H.R. 2660, the Fair Choice and Competition in Real Estate Act of 2005, would allow banking companies into the fields. This report will be updated as events warrant.

Framework of Legislation and Regulation

The Gramm-Leach-Bliley Act (GLBA, P.L. 106-102)[2] was landmark legislation that allowed banking, securities, and insurance companies to operate in affiliation with each other under the organizational form of financial holding companies (FHCs). GLBA also permitted FHCs, like financial subsidiaries of banks (FSs), to engage in a variety of activities not previously allowed to banks or companies owning banks.[3] Under GLBA,

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[1] This report was originally authored by William D. Jackson.

[2] 113 Stat. 1338-1481.

[3] FHCs hold controlling stock interests in separately incorporated or chartered businesses, such as banks, mortgage companies, stockbrokers and dealers, etc. The Federal Reserve supervises all FHCs, which are not federally insured. FSs are businesses that banks themselves own. The bank regulators supervise FSs, which, while not necessarily federally insured, are owned directly by insured banks. These structural differences are important because GLBA allows more latitude (continued...)

the Federal Reserve (Fed) and the Treasury Department, which contains the Office of the Comptroller of the Currency (OCC), have authority to issue regulations expanding activities for FHCs and FSs, respectively.

In GLBA, §103 requires that the Fed find that new activities for FHCs are financial in nature, incidental to a financial activity, or, both "complementary" to a financial activity and not posing a substantial risk to safety and soundness. §121 repeats the standard for the OCC governing FSs. Congress crafted GLBA as a compromise to allow financial affiliations while avoiding a general mixing of "banking" with "commerce." It specifically excluded bank FSs from underwriting insurance and from real estate investment and development, except as may already have been authorized by other law.[4]

Proposed Brokerage and Management Regulation

In December 2000, the Fed and the Treasury released a proposal to allow banking companies into new real estate businesses, under §§103 and 121.[5] Their proposal would allow FHCs and FSs to enter real estate brokerage and property management, if these activities could be considered financial in nature or incidental to a financial activity (not the less exacting "complementary" test). "Brokerage" includes acting as an intermediary between parties to a real estate transaction, listing and advertising real estate, soliciting sales, negotiating terms, and handling closings. It is not purchase or sale of property as an owner, and it requires state licensing and regulation. "Property management" includes soliciting tenants, negotiating leases, servicing rents, maintaining security deposits, making operating payments, and overseeing upkeep. Managers thus need not be owners, and banking firms could not become owners of real estate through this proposal.

The Fed and the OCC historically disallowed real estate brokerage and property management activities for their regulated institutions. The Office of Thrift Supervision (also within the Treasury) does allow subsidiaries of federal savings associations to provide real estate brokerage and property management services. About half the states seem to allow these activities for the financial institutions that they charter and regulate; however, actual practice of bank realty powers appears very rare.[6] Conversely, real estate brokers and managers cannot offer essential banking services — accepting deposits and making commercial loans — and are not seeking to become bank-like. They do not want to form financial holding companies or obtain bank charters, and especially seek to avoid becoming regulated by the Fed or other banking agency.

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[3] (...continued)
for uninsured FHCs to operate in nontraditional lines of business. FHCs are considered less likely than banks and bank subsidiaries to cause difficulties for the federal support mechanisms for banks, especially deposit insurance funds, should they encounter losses.

[4] 113 Stat. 1373, 12 U.S.C. 24a.

[5] Board of Governors of the Federal Reserve System and Department of the Treasury, "Bank Holding Companies and Change in Bank Control," *Federal Register*, vol. 66, no. 2, Jan. 3, 2001, pp. 307-314.

[6] Conference of State Bank Supervisors, "Real Estate Brokerage Chart," available at [http://www.csbs.org/government/legislative/realestate/re_chart.htm].

Bankers (American Bankers Association, Financial Services Roundtable, and New York Clearing House Association) requested this authority. In their view, it would allow financial institutions to offer a fuller range of financial service, using many skills that banks already have. They argue that these activities are financial in nature and would lower the costs of realty transactions. Other supporters are the America's Community Bankers, Consumer Bankers Association, Independent Community Bankers of America, Realty Alliance, and Real Estate Services Providers Council.

The National Association of Realtors (NAR) opposes the proposal, arguing that no law, including GLBA, authorizes banking firms to provide real estate brokerage and property management, which it argues are nonfinancial in nature. From its perspective, the proposal would create anticompetitive and anticonsumer concentrations of power dominating the realty industry and increasing costs to consumers. Other opposing entities are the Building Owners and Managers Association, Consumers Union, Institute of Real Estate Management, International Council of Shopping Centers, National Affordable Housing Management Association, and National Association of Homebuilders.

Arguments Concerning the Nature of the Industries

Favoring the Proposal.

(1) Banks, FHCs, and FSs already engage in a variety of other real estate activities: financing, appraising, leasing, settling, escrowing, and investment advising.

(2) Agency services that FHCs and FSs provide in securities and insurance are similar to those of real estate brokers and property managers.

(3) FHCs may act as "finders," bringing together buyers and sellers of non-real-estate assets generally. (Found parties must negotiate terms, including prices, for themselves.)[7]

(4) Bankers already act as intermediaries in arranging commercial real estate equity financing (transfer of title, control, and risk arrangements for projects) and often finance the underlying projects.

(5) Several diversified financial companies provide realty services beyond their more traditional banking, securities, and insurance services. Some realty-based companies offer bank-like services, most visibly mortgages.

(6) Some savings associations and state-chartered banks already provide these real estate services. Twenty-seven states and the federal Office of Thrift Supervision appear to allow the activities at issue for deposit-based financial institutions, at least statutorily.

Opposing the Proposal.

(1) GLBA specifically prohibits FSs from engaging in real estate development and investment. Thus, its intent may have been to restrain new realty powers of bankers.

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[7] 12 CFR 225.86(d).

(2) Real estate brokerage and property management are commercial activities. Their necessary hands-on sales skills are far different from lending. When bankers sponsored Real Estate Investment Trusts in the 1970s, most collapsed with large losses.

(3) Real estate brokerage and property management involve negotiation of realty transactions. That role has been forbidden to FHC s as "finders." FHC finders may not engage in any activity requiring registration or licensing as a realty agent or broker.

(4) One study states that the real estate industry is highly competitive and efficient, much more productive than financial services generally.[8] If so, bankers would presumably bring almost no net benefit to real estate brokerage and property management.

(5) Entry of deep-pocket banking companies, which benefit from federal assistance including deposit insurance, might drive out brokers and property managers, which typically operate on a much smaller scale.

(6) Competition for lending could decline if buyers believe that one-stop realty transacting and financing would ease credit approval. Mortgage lenders not involved with the brokerage part of realty transactions might lose business.

Arguments Concerning Customers (Consumers/Businesses)

Favoring the Proposal.

(1) Customers could benefit from lower costs and greater convenience if one organization provided most realty services bundled together. Transaction details (paperwork) often overwhelm buyers and sellers of property. Consumers, including buyers of these services, generally prefer more competitors in a field to fewer.[9]

(2) Clients of banks need not face complications of start-from-scratch checking of creditworthiness, which their bankers already know. The credit approval/underwriting process is the stage of real estate purchase that is usually the most delayed.

(3) Laws against forcing customers to obtain both nonlending services and loans from banking companies (which observers call "tying") would still restrain market power of companies providing banking and realty services jointly. Meanwhile, many real estate brokers seem to have close ties with favorite mortgage lenders, title companies, etc., making it easy for customers to deal with almost one-stop financial shopping.

Opposing the Proposal.

(1) Customers might believe that obtaining realty brokerage or property management services from bankers would ease credit approval for their financing. Better, unbundled deals may be available from competition among multiple providers.

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[8] A conclusion of a study by Leonard Zampano of the University of Alabama presented at the NAR Midyear Legislative Meetings and Trade Expo, Washington, DC, May 17, 2001.

[9] American Bankers Association, "Consumers Want More Real Estate Competition, New Survey Reveals," at [http://www.aba.com/Press+Room/051501realestate.htm].

(2) Customer service could suffer with fewer specialized providers. Bank credit standards might not be appropriate for realty transactions requiring flexibility, especially when tightening credit quality concerns ("credit crunches") cut back bank lending.

(3) Low- and moderate-income households lacking bank relationships might not benefit from bundled realty services designed for bank clients of greater resources.

Developments and Legislation

2001. The original proposal remained open for comment until May 1, 2001. The House Subcommittee on Financial Institutions and Consumer Credit held a hearing on in which many Members voiced disapproval of it. Representative Calvert introduced H.R. 3424, the Community Choice in Real Estate Act, which would have prohibited banking companies from engaging in real estate brokerage or real estate management activities. Supporters believed the regulatory proposal circumvented the congressional intent of GLBA, redefining real estate activities as financial activities, thus mixing banking with commerce. They also believed the proposal would be anticompetitive. Senator Allard introduced the Senate version, as S. 1839.

2002. The House Subcommittee on Commercial and Administrative Law held its Oversight Hearing on Proposed Federal Reserve/Treasury Department Real Estate Brokerage and Management Rule. The Senate Subcommittee on Financial Institutions held its hearing, Bank and Financial Holding Company Engagement in Real Estate Brokerage and Property Management, the House Subcommittee on Financial Institutions and Consumer Credit held a hearing on H.R. 3424.

2003. Representative Calvert and Senator Allard reintroduced the Community Choice in Real Estate Act, now numbered H.R. 111 and S. 98, to prohibit FHCs and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities. Both measures were identical to their predecessors. The 108th Congress passed the basic federal spending package, P.L. 108-7. It retained the prohibition amendment, disallowing any funds for Treasury Department issuance of the bankers' real estate regulation in FY2003.

2004. Representative Northup reintroduced the amendment into the Transportation Appropriations bill H.R. 2989. The measure prohibited FY2004 funds from being used to implement the proposed rule. The House approved that measure.[10] Senate approval resulted in P.L. 108-199, continuing no-spending language.

For the next fiscal year (FY2005), no-spending language reappeared as Section 523 of H.R. 5025, the Transportation, Treasury, and Independent Agencies Appropriations Act. Its ban on Treasury regulatory issuance via a spending cutoff was in the original measure, which cleared the subcommittee. Stronger, permanent, prohibitory language was included in Section 217 of the counterpart S. 2806, which, if Congress had approved it, would have had the force of law to prevent the proposed activity in the future. Following conference approval, the FY2005 omnibus spending measure, P.L. 108-447,

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[10] Division F, Title II, Section 538. *Congressional Record*, Nov. 25, 2003, p. H12415.

adopted the House version.[11] The final version of the Treasury appropriations language thus included the third moratorium, until the end of FY2005.

2005. Representative Calvert reintroduced the Community Choice in Real Estate Act, H.R. 111. Senator Allard reintroduced its companion bill, S. 98. Conversely, Representative Oxley introduced H.R. 2660, the Fair Choice and Competition in Real Estate Act of 2005, on May 26. It would amend the Bank Holding Company Act of 1956 (the foundation for GLBA) to allow real estate brokerage activities and real estate management activities for financial holding companies and financial subsidiaries of national banks.[12] The House Committee on Financial Services held a hearing, Protecting Consumers and Promoting Competition in Real Estate, on June 15.[13] In its first report on real estate brokerage, the Government Accountability Office found that state-chartered bank activity (where permitted) had little effect on competition or consumers.[14]

In the FY2006 appropriations process for H.R. 3058, covering the Treasury, conferees adopted House language prohibiting the Treasury from finalizing the contentious rule in FY2006 (Section 718). Conferees rejected stronger language in the Senate version of the measure (Section 723) that might have permanently prevented a decision on the issue, therefore issuance of any permissive regulation. President Bush signed this measure into law (P.L. 109-115) on November 30, 2005.

On December 5, the OCC relaxed prohibitions on bank investments in real estate development projects. The agency wrote two interpretive letters allowing national banks to develop a hotel and a mixed-use project. The Bank of America proposed to invest in a 150-room hotel, and PNC sought to develop a facility with a hotel, retail office space, offices, and condominiums. A third interpretive letter was written dated December 21, 2005, allowing Union Bank of California to invest in a wind energy project in which the bank would own 70% of the project, including the land and wind turbines. The OCC defended its approval of the December 5 interpretive letters, citing 12 U.S.C. § 29 that allows banks to invest in bank premises. Among the justifications for approval of the wind project was that 12 U.S.C. § 29 provides that national banks may purchase, hold, and convey real estate and that this acquisition of interests in real estate is not speculative. Those developments would appear essentially to end the stricture against national bank ownership and leasing of real estate, thereby moving further toward allowing bankers into real estate brokerage, etc.[15]

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[11] Division H, Section 519, *Congressional Record*, Nov. 20, 2004, p. H10358.

[12] Karen L. Werner, "Reps. Oxley, Frank Introduce Measure To Allow Real Estate Brokerage for Banks," *Daily Report for Executives*, May 31, 2005 , p. A-11.

[13] See [http://financialservices.house.gov/hearings.asp?formmode=detail&hearing=395].

[14] *Real Estate ate Brokerage Activity, Factors that May Affect Competition*, GAO-05-947.

[15] R. Christian Bruce, "OCC Defends Letter on Real Estate Powers While Realtors Call for Action From Congress," *Daily Report for Executives*, Feb. 2, 2006, p. A-31.

Testimony of

Edward L. Yingling

On Behalf of the

AMERICAN **BANKERS** ASSOCIATION

Before the

Subcommittee on Government Management, Finance, and Accountability

Of the

Committee on Government Reform

United States House of Representatives

September 27, 2006

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Mr. Chairman and members of the Subcommittee, my name is Edward L. Yingling. I am President and Chief Executive Officer of the American Bankers Association ("ABA"). The ABA, on behalf of the more than two million men and women who work in our nation's banks, brings together all categories of banking institutions to best represent the interests of this rapidly changing industry. Its membership – which includes community, regional and money center banks and holding companies, as well as savings associations, trust companies, and savings banks – makes ABA the largest banking trade association in the country.

Thank you for the opportunity to present the ABA's views on three recent letter rulings by the Office of the Comptroller of the Currency ("OCC"). In each of these rulings, the OCC did what a responsible regulator should do: It applied existing law to today's facts. In so doing, the OCC has made it possible for national banks to continue serving as economic catalysts for communities across America and to meet the changing needs of bank customers within the existing legal framework.

In my testimony I would like to make the following three points:

- First, the OCC acted well within its authority when it approved banks to develop their premises and to engage in a transaction that is the functional equivalent of lending.

- Second, the challenge by the National Association of Realtors ("NAR") to the OCC's actions is misguided and has the potential to harm the vitality of downtowns across America and to impede investments that Congress has sought to encourage.
- Third, bank regulators need the flexibility to respond to a dynamic industry by permitting the industry to evolve within the limits established by Congress.

These points are discussed in further detail below.

1. The OCC acted well within its authority when it approved banks to develop their premises and to engage in a transaction that is the functional equivalent of lending.

Bank premises

The OCC issued two letters last December approving requests by banks to develop their premises in economically viable ways that would address the banks' operational needs. In considering these requests, the OCC applied precedents that have existed for over 100 years.

Congress included in one of the first codifications of statutes governing national banks the authority for a national bank to hold real estate for the conduct of its business. A national bank using this authority must act in good faith, acquiring the real estate for bank use and not for speculation. Having acquired the property in good faith, the bank is authorized by law to use excess space in the real estate in the same way that a prudent person would use such real estate.

This "prudent person" rule has been in place since 1904, the year in which the United States Supreme Court decided the seminal case of Brown v. Schleier. In that case the Court affirmed the opinion of the lower court, which stated –

> Nor do we perceive any reason why a national bank, when it purchases or leases property for the erection of a banking house, should be compelled to use it exclusively for banking purposes. If the land which it purchases or leases for the accommodation of its business is very valuable, it should be accorded the same rights that belong to other landowners of improving it in a way that will yield the largest income, lessen its own rent, and render that part of its funds which are invested in realty most productive.

The court went on to state that "[T]he national bank act permits banking associations to act as any prudent person would act in making an investment in real estate, and to exercise the same measure of judgment and discretion." The OCC's recent approvals of bank petitions to develop bank premises is simply an application of this well-established authority to today's marketplace.

This authority has enabled national banks to serve as the anchor of downtowns in cities and towns throughout America for over a century. Attached to this testimony are three examples – out of the thousands that exist – of banks that have used their premises to revitalize their downtowns. In some instances, a bank deliberately built a larger structure than it needed so that it would have room to grow. In others, a bank acquired the space that was available even though it was larger than the bank's present needs required. In each case, the bank used the extra space productively to attract other businesses, and in the process strengthened the vitality of the downtown.

Frequently, banks will provide space to local charities and governments. Bank buildings also attract other businesses, such as accountants, doctors, lawyers, and even realtors to downtown. In the examples attached, one of the banks turned excess space into a gathering place for the community while another bank provides space to a non-profit Main Street organization. The common thread in all of these is that mixed-use bank buildings are catalysts for economic activity.

When banks construct or acquire their premises, the economics of the transaction often requires that a building be designed for mixed-use purposes. The OCC recognized this when, in one of the letters challenged by the NAR, the OCC permitted a bank to construct a building that would provide office space for the bank and others, as well as providing space for retail activity, hotel rooms, and condominiums. The proposed mix of space was deemed necessary to make the building financially viable. It also was viewed as important to the rejuvenation of the downtown in which the building is to be located.

The OCC has appropriately recognized that a bank has many uses for its premises. For community banks, the needs may center on local banking operations. For banks operating nationwide or internationally, the needs may include accommodating bank clients and employees traveling on bank business.

The variations may differ but the theme remains the same: Banks need space to conduct their operations and, having acquired space, banks should be permitted to use that space productively. The OCC and courts have clearly and consistently affirmed that banks have ample authority to acquire bank premises and use them just as any other landowner would. The recent bank premises letters issued by the OCC simply apply this time-honored precedent to current facts.

It also is worth emphasizing that banks have been developing their premises for decades without any problems. That is because, despite allegations to the contrary, the authority is in fact very limited and subject to strict prudential limitations.

Functional equivalent of lending

The authority of banks to engage in transactions that are the functional equivalent of lending is equally well settled. Courts for decades have looked at the economic substance of a transaction rather than its form to determine whether a given activity is permissible for insured depository institutions. In the leading case in this area, M & M Leasing Corporation v. Seattle National Bank (1977), the court concluded that a national bank, pursuant to its authority to "make a loan of money on personal security," may enter into leases that are "functionally interchangeable" with a secured loan.

Banks, as a general rule, are not permitted to own non-financial commercial firms, and the ABA strongly supports this separation of banking and non-financial commerce. However, for many years banks have been permitted to take technical ownership as part of a transaction that is carefully structured to be, in effect, an extension of credit. Leasing arrangements are one common set of such examples, although there are many others. When a consumer leases a car, the lender owns it but the lease is generally a substitute for a car loan. Simply put, these types of financings occur all the time.

The OCC frequently has looked through the form of a transaction to its substance and permitted a national bank to take an equity interest in connection with the financing of many types of projects, including, most recently, a wind energy project. In order for that project to be economically viable, the bank providing the funding needed to take an equity interest in the company that would operate the project. This enabled the bank to use the tax credits to attract capital to the project, tax credits that would have been unavailable to a nonprofit entity.

The financing of the wind energy project in question was, at its core, the functional equivalent of a loan. The equity interest taken by the bank did not affect the underlying fundamentals of the transaction. The OCC supported this conclusion by listing in considerable detail the factors that led the agency to conclude that the project "would be substantially identical to a recognized form of extension of credit." Among the factors considered was the fact that the day the tax credit runs out, the bank's equity interest is required to end. This clearly demonstrates that this transaction is structured as a financing mechanism around the tax credit. Applying M & M Leasing, the OCC concluded that the bank was authorized to engage in the activity, within careful safeguards.

For years banks have taken equity interests in many other projects, including projects to fund historic rehabilitation, low-income housing, and community revitalization. The real owner of the projects frequently is a nonprofit corporation, which has no ability on its own to make use of a tax incentive. For the non-profit to make use of the tax credit, it usually needs to work with a commercial bank, which can use the tax credit to reduce the effective cost of financing to the non-profit entity. In many cases, though, for the bank to qualify for the tax credit, it must take an equity interest in the project. That is to say, to attract additional sources of funding, a loan often will be structured as an equity investment so that a bank may benefit from the tax incentive and the non-profit may receive the funding it needs, often at reduced overall costs.

The results speak for themselves. For example, in 2005, the low-income housing tax credit attracted $7.5 billion in private equity capital. That same year saw over $3 billion invested in community development projects by national banks alone, of which approximately 90 percent was invested in projects for which tax credits were received. The OCC estimates that next year $7 billion will be received in New

Markets tax allocation credits by insured depository institutions. Without the ability to structure loans as equity investments, these results would not be achieved and the Congressional policy objectives would be frustrated.

The OCC's authorization of a national bank to finance a wind energy project is merely another example of the system working exactly as it should. The transaction reviewed by the OCC clearly is consistent with the law and policy established by Congress. In speaking about this approval as well as the two approvals for banks to develop their premises, Congressman Michael Oxley, Chairman of the House Committee on Financial Services, stated that "The actions that the OCC has taken in its authorization letters are reasonable, well within the law, and within precedent."

2. The NAR's challenge to the OCC's actions is misguided. Moreover, it has the potential to harm the vitality of downtowns across America and to impede investments that Congress has sought to encourage.

The NAR has publicly claimed that the three OCC approvals have put our banking system on a path that will lead to a reprise of the savings and loan crisis or another Japanese-style banking meltdown. This rhetoric is misguided.

National banks have only limited authority to invest in real estate or in commercial activities. The relevant statute states that a national bank may purchase, hold, and convey real estate only for the following purposes:

> **First.** Such as shall be necessary for its accommodation in the transaction of its business.
> **Second.** Such as shall be mortgaged to it in good faith by way of security for debts previously contracted.
> **Third.** Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings.
> **Fourth.** Such as it shall purchase at sales under judgments, decrees, or mortgages held by the association, or shall purchase to secure debts due to it.

Even this limited authority for a bank to invest in real estate for bank premises is subject to a number of safeguards designed to ensure that the authority cannot be misused. First, as noted above, any investment in bank premises must be made in good faith, *i.e.*, for the bank's use and not for the purpose of speculating in real estate. Second, banks may not make investments in bank premises that would exceed a specified percentage of bank capital. Third, a bank must obtain the prior approval of its primary federal regulator under certain circumstances.

Moreover, a national bank may not use a financial subsidiary to engage in real estate development activities that are prohibited for the bank. Congress was very clear in the Gramm-Leach-Bliley Act ("GLBA") that real estate development is ***not*** an activity that a financial subsidiary of a national bank may engage in. Section 121 of GLBA states that "the activities engaged in by the financial subsidiary as a principal do not include … real estate development or real estate investment activities, unless otherwise expressly authorized by law."[1]

Thus, banks are not permitted to make a business in real estate development. In essence, a bank's authority is confined to holding real estate as bank premises and in connection with making mortgage loans. This hardly places the banking system on the road to ruin. Instead, this limited authority is all about enabling banks to provide the services to their communities that they were chartered to provide.

[1] The full text of section 121 of GLBA states, in relevant part:

(a) AUTHORIZATION TO CONDUCT IN SUBSIDIARIES CERTAIN ACTIVITIES THAT ARE FINANCIAL IN NATURE.—

(1) IN GENERAL.—Subject to paragraph (2), a national bank may control a financial subsidiary, or hold an interest in a financial subsidiary.

(2) CONDITIONS AND REQUIREMENTS.—A national bank may control a financial subsidiary, or hold an interest in a financial subsidiary, only if—

(A) the financial subsidiary engages only in—

(i) activities that are financial in nature or incidental to a financial activity pursuant to subsection (b); and

(ii) activities that are permitted for national banks to engage in directly (subject to the same terms and conditions that govern the conduct of the activities by a national bank);

(B) the activities engaged in by the financial subsidiary as a principal do not include—

(i) insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death (except to the extent permitted under section 302 or 303(c) of the Gramm-Leach-Bliley Act) or providing or issuing annuities the income of which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986;

(ii) real estate development or real estate investment activities, unless otherwise expressly authorized by law; or

(iii) any activity permitted in subparagraph (H) or (I) of section 4(k)(4) of the Bank Holding Company Act of 1956, except activities described in section 4(k)(4)(H) that may be permitted in accordance with section 122 of the Gramm-Leach-Bliley Act;

* * *

National banks' authority to make an equity investment as part of a transaction that is the functional equivalent of lending is comparably narrow. The National Bank Act prohibits national banks from making equity investments except in a few specified instances. An equity interest taken solely to facilitate a transaction that is the functional equivalent of lending does not cross that statutory line.

As previously noted, the OCC carefully reviewed the wind energy project at issue. It looked at, among other things, the underwriting criteria applied by the bank, the extent to which the bank intended to become involved in the management of the underlying business, and whether the bank could realize a speculative gain or loss. Following this review, the OCC concluded that the wind energy project posed no greater risk to the bank than would a transaction structured as a direct loan. More broadly, the precedent presents no greater risk to our economy than does lending in general.

The NAR is making arguments that threaten banks' ability to continue serving their communities and their customers. As discussed above, banks have provided enormous benefits to towns and cities across America. Downtowns will suffer if banks lack the ability to develop their premises with mixed-used buildings. Without banks' ability to offer innovative financing structures, the ability to achieve the goals that Congress has sought to achieve through tax incentives – in areas such as community development, low-income housing, and renewable energy – will be undermined.

America will be a poorer place if the longstanding bank community investment practices described above become casualties of the NAR's campaign. It is perhaps ironic, but certainly unfortunate, that the ominous phantoms of economic catastrophe conjured up by the NAR could cause real economic harm.

3. Bank regulators need the flexibility to respond to a dynamic industry by permitting the industry to evolve within the limits established by Congress.

The United States has benefited from a remarkably healthy banking industry. The health of that industry is due in large part to a regulatory system that permits banks the freedom to innovate. Congress establishes the policy that guides our banking industry. Congress also relies on the bank regulators to implement the policy directives in the myriad of situations that banks face every day.

Our banking industry is as dynamic as our economy. As the needs of bank customers evolve, so must the ability of banks to respond to those needs. This, in turn, requires a regulatory system that is sufficiently flexible to permit safe, sound, and innovative ways of meeting customer needs.

We urge Congress to permit the regulators to continue doing what they do best, namely, rigorously apply safety and soundness principles in an environment that permits banks to grow and serve their communities.

CONCLUSION

The OCC, in issuing the three letters that are challenged by the NAR, acted responsibly and in a manner that is consistent with applicable statutes and court cases. Despite breathless rhetoric to the contrary, the letters are very limited in scope. Certainly, and in fact obviously, they will not cause the downfall of our banking system or erode the boundaries between banking and non-financial commerce. Rather, the letters will permit banks to continue serving as economic catalysts for their communities and as creative sources of capital for their customers.

For Release Upon Delivery
2:00 p.m. September 27, 2006

TESTIMONY OF

JULIE L. WILLIAMS

FIRST SENIOR DEPUTY COMPTROLLER

AND CHIEF COUNSEL

OFFICE OF THE COMPTROLLER OF THE CURRENCY

Before the

SUBCOMMITTEE ON GOVERNMENT MANAGEMENT,

FINANCE, AND ACCOUNTABILITY

Of the

COMMITTEE ON GOVERNMENT REFORM

UNITED STATES HOUSE OF REPRESENTATIVES

September 27, 2006

Statement required by 12 U.S.C. § 250:

The views expressed herein are those of the Office of the Comptroller of the Currency and do not necessarily represent the views of the President.

I. INTRODUCTION

Chairman Platts, Ranking Member Towns, and members of the Subcommittee, I appreciate this opportunity to appear before you today on behalf of the Office of the Comptroller of the Currency (OCC) to discuss the three interpretive letters issued by the OCC in December 2005, which you have asked the OCC to address. Two of the letters to which you refer concern situations where banks seek to enhance use of property that they already own, in connection with their own banking operations. The third letter relates to a bank's provision of financing to an energy project. It appears that in many respects the scope and application of these letters has been misunderstood, and thus I welcome the opportunity to describe them – and their impact – fully, here today.

The decisions reflected in the letters are within the OCC's authority and provisions of the National Bank Act. As I will describe in more detail below, the conclusions contained in the letters are quite specific, limited in scope, and within the framework of existing precedent for national banks' activities. Since many claims have been made about what the letters do and do not authorize, let me be very clear that they do not breach the boundaries between banking and commerce, do not authorize national banks to engage in the business of real estate investment or development, have nothing to do with merchant banking, have nothing to do with allowing national banks to conduct real estate brokerage, and were carefully evaluated by OCC supervisors to assure that the activities would be consistent with the safe and sound operations of the banks involved.

Because of the limited and specific nature of the activities addressed in the letters, the banks involved do not have dual roles that could present conflicts of interest, nor do the letters set new precedent that will lead to greater participation by national banks in real estate that could potentially have larger effects on the economy. Because the OCC reviews all such proposals on a case-by-case basis, and because our review includes participation by the supervisory officials for each bank, the conclusions in the respective letters are applicable only to the particular bank at issue. We have no evidence that the issuance of the letters has resulted in an increase in national banks seeking to engage in real estate related activities; in fact, since the letters were issued, we have received no proposals from other national banks seeking to rely on them for their own activities.[1] Please be assured that the OCC fully recognizes the limits of national banks' authority with respect to real estate activities and will apply those standards consistently to all national banks.

II. DISCUSSION OF THE THREE LETTERS

The limited authority of national banks to invest in real estate has long been recognized by both the courts and the OCC. This authority enables national banks to take different types of direct and indirect interests in real estate in connection with conducting their own banking business.

The following discussion describes in detail the factors the OCC relied on in reaching its decisions on the letters at issue, why the letters are consistent with the agency's authority and supported by the National Bank Act, and why they are fully consistent with the well-recognized—and limited—parameters for national banks' acquisition of interests in real estate.

A. Real estate/premises letters

Two of the letters, which I will call the "Bank Premises Letters," permitted the banks to develop property they already owned, in ways that enhanced how the property served each

[1] Because conclusions in the letters are expressly conditioned on the specific facts presented and the capacity of the respective banks to conduct the activities in question, the letters do not generally authorize other national banks – or state banks – to engage in comparable activities. The authority of state banks to invest in real estate or engage in real estate related activities such as real estate brokerage is, in many cases, broader than the authority of national banks.

bank's banking operations. The letters are based upon decades-old judicial precedent and OCC interpretations that expressly recognize that a national bank may hold and develop property used in connection with its own operations and lease or sell the portion of the premises that the bank does not use. This authority is subject to substantial limitations and constraints, including the requirement that the development must not be speculative or motivated by realizing a gain on appreciation of the real estate property value. In each letter, based on specific information provided by each bank, the OCC concluded that the bank demonstrated that the proposed bank premises development was justified by a legitimate and good faith business need for accommodation of the bank's business activities. As a result, the Bank Premises Letters have a limited and specific impact and do not lay a foundation for national banks' engaging in the real estate development (or brokerage) business, and they do not breach the separation of banking and commerce.

It is useful to review the details of the two letters, since they demonstrate that the scope and implications of the letters are very limited indeed.

The situation addressed in the first letter (Interpretive Letter 1044), involved a proposal to establish a mixed-use office, hotel, and residence building on the property already owned by the bank. The proposal would expand the bank's corporate headquarters complex, which the bank currently occupies to nearly full capacity, enabling the bank to relocate staff from more distant leased space, giving the bank additional office space for future expansion, and providing space for bank staff displaced by renovation of another of the bank's buildings. The bank represented that it would occupy at least 22% of the premises of the new building. It also explained that the proposed mixed-use nature of the premises was necessary for the new building to be a viable project. The bank also presented evidence that the proposal represented an important part of an economic rejuvenation effort for downtown Pittsburgh, since the new premises—with their specific combination of office, hotel and residential space[2]—would be replacing rundown, dilapidated buildings that currently occupy the lots to be developed.

The second letter (Interpretive Letter 1045), addressed the establishment of a hotel facility, also on property already owned by the bank and also adjacent to the bank's corporate headquarters in downtown Charlotte. The bank represented that it would use more than 50% of the occupied rooms to lodge out-of-area bank employees, bank directors, vendors, shareholders, customers and others who were visitors on bank-related business. The provision of lodging for out-of-area visitors and doing so in a convenient and cost-effective manner provided legitimate business reasons for the proposal. The bank also supported this proposal as an enhancement to the downtown area, anticipating that the hotel, to be built on a site currently used as a parking lot, would contribute to new businesses and new jobs at the site and in its vicinity.

Our conclusion in both cases was based on national banks' authority to acquire and develop bank premises under 12 U.S.C. § 29. That section provides that a national bank may purchase, hold, and convey such real estate "as shall be necessary for its accommodation in the transaction of its business."

In applying this standard, the courts and the OCC have recognized that bank premises can take different forms, such as office buildings, parking, storage, and, as here, lodging. The courts also have long recognized the principle that it is appropriate for a national bank to maximize the utility of its banking premises by leasing or selling the portion of the premises. For example, in *Brown v. Schleier*, 118 F. 981, 984 (8^{th} Cir. 1902), *aff'd*, 194 U.S. 18 (1904), the court stated:

> If the land which [a national bank] purchases or leases for the accommodation of its business is very valuable, it should be accorded the same rights that belong to other landowners of improving it in a way that will yield the largest income, lessen its own

[2] The bank demonstrated that, in order to establish required office space in an economically feasible manner, it needed to sell off a small number of residential condominiums. The bank showed that residential condominiums are becoming a common addition to downtown mixed-use office construction and that the number of condominiums it proposed were readily marketable – by an unrelated real estate broker – thus the bank would not retain that portion of the property.

> rent, and render that part of its funds which are invested in realty most productive. There is nothing, we think, in the national bank act, when rightly construed, which precludes national banks, so long as they act in good faith, from pursuing the policy above outlined.

For decades—indeed, for over 100 years—courts have recognized *Brown* as one of the leading, if not the leading, case on the authority of national banks to establish and utilize bank premises.[3]

The *Brown* case also contains important limiting principles that have long been recognized by the OCC and the courts. The acquisition of real estate or establishment of bank facilities must be conducted in good faith in furtherance of a bank's banking operations, and not as a real estate development business. The burden is on the bank to demonstrate a legitimate business reason based on accommodating its *banking business operations* for acquiring and/or developing the property for the projected use. As one measure of good faith use of the premises for banking purposes, the courts and the OCC look to the percentage of use or occupancy of property in conjunction with the bank's business. Finally, the investment must not be speculative or motivated by realizing a gain on appreciation of the real estate property value. OCC interpretations, including these Bank Premises Letters, have recognized these substantial limitations and constraints.

The following chart summarizes precedent and OCC interpretations involving the sale or lease of excess bank premises. The percentage of bank occupancy or use generally has varied between 15% and 50%, with the excess space in the premises available for use by third-parties.

[3] *See, e.g., Morris v. Third Nat'l Bank*, 142 F. 25, 32 (8'" Cir. 1905), *cert. denied*, 201 U.S. 649 (1906); *Wingert v. First Nat'l Bank*, 175 F. 739,741 (4'" Cir. 1909)) *appeal dismissed* 223 U.S. 670 (1912); *Second Nat'l Bank v. US. Fidelity & Guaranty Co.*, 266 F. 489, 493 (4'" Cir.), *appeal dismissed*, 254 U.S. 660 (1920); *Perth Amboy Nat'l Bank v. Brodsky*, 207 F. Supp 785, 788 (S.D.N.Y.1962) (citing *Brown* for the conclusion that "[i]t is clear beyond cavil that the statute permits a national bank to lease or construct a building, in good faith, for banking purposes, even though it intends to occupy only a part thereof and to rent out a large part of the building to others"); *Farmers' Deposit Nat'l Bank v. W'ern Penn. Fuel Co.*, 215 Pa. 115, 118(1906).

Judicial and OCC Precedents Addressing National Banks' Authority to Lease Excess Bank Premises to Third-Parties

Citation	Date	Holding	% Occupancy by National Bank (if applicable)
Interpretive Letter (available in Lexis-Nexis)	December 16, 1991	National bank may lease portion of storage facility on bank premises to unrelated third-party	50.0%
Interpretive Letter (available in Lexis-Nexis)	March 10, 1994	National bank may add space to two existing bank buildings and lease all new space to third-parties	40.0%
Interpretive Letter No. 1045	**December 5, 2005**	**National bank may establish hotel to provide lodging for out-of-area staff, customers, and vendors, and lease excess space to third-parties**	**37.5%**
Perth Amboy Nat'l Bank v. Brodsky, 207 F.Supp. 785 (S.D.N.Y. 1962)	August 6, 1902	Recognizing authority of national bank to use percentage of building for bank purposes and lease remainder to third-parties	30.0%
Conditional Approval No. 298	December 15, 1998	National bank may establish office complex and parking facilities to provide office space for bank employees	25.0%
Interpretive Letter No. 1044	**December 5, 2005**	**National bank may establish mixed-use building to provide office space for bank employees and to provide lodging for out-of-area staff, customers, and vendors, and lease excess space to third-parties**	**22.0%**
Interpretive Letter No. 1034	April 1, 2005	National bank may establish two office building complex to provide office space for bank employees, and lease excess space to third-parties	22.0%
Wirtz v. First Nat'l Bank & Trust Co., 365 F.2d 641 (10th Cir. 1966)	August 30, 1966	National bank may occupy percentage of office complex and lease remaining space to third-parties	20.7%
Wingert v. First Nat'l Bank, 175 F. 739 (4th Cir. 1909), *appeal dismissed*, 223 U.S. 670, 672 (1912)	December 16, 1909	National bank has authority to tear down bank building and construct new six story office building in which bank will occupy only first floor, and lease excess space to third-parties	16.7%
Interpretive Letter (unpublished)	January 29, 1981	National bank may occupy percentage of office complex and lease remaining space to third-parties	15.0%
Interpretive Letter (available in Lexis-Nexis)	July 24, 1987	National bank may occupy small percentage of new office building constructed adjacent to bank's headquarter's building, with potential future expansion into larger percentage of new building; excess space leased to third-parties	5.0%
Additional Bank Premises Precedent That Do Not Discuss a Specific Percentage Occupancy			
Brown v. Schleier, 118 F. 981 (8th Cir. 1902), *aff'd*, 194 U.S. 18 (1904)	November 10, 1902	National Bank Act does not preclude a national bank, acting in good faith, from maximizing the utility of its banking premises by leasing excess bank premises to third-parties	
Interpretive Letter No. 2	December 13, 1977	National bank may own apartment in Los Angeles for use by its CEO who maintains his primary residence elsewhere	
Interpretive Letter No. 274	December 2, 1983	National bank may lease lobby space to variety of third-parties	
Interpretive Letter (available in Lexis-Nexis)	August 14, 1985	National bank authorized to develop portion of new bank premises building as office condominiums and sell the condominiums	
Interpretive Letter (available in Lexis-Nexis)	June 24, 1992	National bank may purchase building to house its retail brokerage business, and lease building to third-party broker which will have dual employees with the bank	
Interpretive Letter No. 1042	January 21, 1993	National bank may hold condominium for use of out-of-area visitors	
Interpretive Letter (available in Lexis-Nexis)	May 6, 1993	National bank may accept contribution of real property for future bank premises from its holding company	
Interpretive Letter No. 630	May 11, 1993	National bank may license use of space on its premises to a third party	
Interpretive Letter No. 1043	July 8, 1993	National bank may lease condominium, used for out-of-area bank visitors, to third-parties when not in use by bank visitors	
Interpretive Letter (available in Lexis-Nexis)	September 13, 1993	Bank, if it were national bank, could retain ownership of residences used by executives of bank's foreign parent on lon-term rotations	
Interpretive Letter (available in Lexis-Nexis)	February 23, 1994	National bank may transfer vacant land it holds from OREO to future bank premises	
Interpretive Letter No. 758	April 5, 1996	National bank may lease portion of parkland, held as bank premises, to third-party	
Interpretive Letter (available in Lexis-Nexis)	August 18, 1997	National bank may dispose of unneeded leased bank premises by renewing its lease for 99 years and entering into coterminous sublease with developer	
Interpretive Letter	December 8, 2005	National bank may lease parcel larger than necessary in order to establish bank branch when lessor will lease only whole parcel; bank will sublease excess acreage to third-party	

As the chart demonstrates, the proposals addressed in the Bank Premises Letters involve occupancy percentages well within the range of both judicial precedent and other OCC interpretations.

Under the standards described above, we found the proposals in the Bank Premises Letters to be permissible. In each letter, the bank demonstrated a legitimate business reason based on the accommodation of its banking business operations for developing the property with the projected use. In each letter, the bank's represented level of occupancy established good faith development of bank premises in furtherance of the bank's banking operations. In neither letter was the development of bank premises predicated on a desire to speculate in real estate property values. Finally, each proposal was reviewed thoroughly from a supervisory perspective, and no safety and soundness concerns were found.

Finally, it is important to stress that neither of these letters has anything to do with national banks' engaging in the real estate *brokerage* business. The first Bank Premises letter, in fact, expressly noted that a real estate broker unrelated to the bank would be responsible for sales of the condominiums. This was one of the representations upon which the OCC relied in issuing this Interpretive Letter.

B. Project Financing Letter

The Project Financing Letter (Interpretive Letter 1048) involves the provision of financing to a wind energy project. The letter authorizes a bank to provide financing to a wind energy project in the form of an investment in order to allow the bank to take advantage of federal tax credits available for such projects, thereby lowering the overall financing cost of the project. The restrictions and limitations in the Project Financing Letter make clear that our approval is premised on the bank's interest being structured so as to preserve its economic substance as a loan rather than a speculative equity investment. In particular, unlike a traditional equity investment, the bank (1) may not participate in the operation of the business receiving the bank's financing; (2) may not realize any gain on the appreciation of the value of its interest in the business or assets held by the business; and (3) must provide in the project agreement many of the same terms, conditions, and covenants typically found in lending and lease financing transactions to protect its interests.

A key factor in the decision to allow this financing transaction to be structured as an equity investment was to allow the bank to capture tax benefits that were enacted by Congress to finance alternative sources of energy. For similar reasons—that is, to capture tax benefits that Congress has authorized to promote certain types of projects—the OCC has long permitted national banks to provide financing that takes the form of equity, *e.g.*, to finance low-income housing, the renovation of historic buildings, and other types of community development projects. These transactions have proven to be low risk, and like the alternative energy financing here, provide an important source of capital to projects that Congress, by providing tax credits in connection with such investments, has affirmatively sought to promote.

Both the OCC and the courts have held that permissible loan-equivalent transactions can take different and non-traditional forms in order to accommodate the demands of the market; the economic substance of the transaction, rather than its form, guides the analysis of whether the transaction is a permissible lending activity. The leading case on this is *M & M Leasing Corp. v. Seattle First Nat'l Bank*, 563 F.2d 1377 (9th Cir. 1977), *cert. denied*, 436 U.S. 956 (1978) (national banks may acquire, own, and lease automobiles and heavy equipment; when the economic characteristics of a lease are substantially similar to a loan, the lease is deemed to be an exercise of the bank's lending powers).

The Project Financing Letter noted its reliance on a 1994 precedent where the OCC found a transaction similar in structure to be a permissible loan notwithstanding its surface resemblance to an investment. *See* Interpretive Letter (November 4, 1994) (available in Lexis-Nexis) (bank provided financing to owners of natural gas leases by acquiring interest in business trust that owned working interests in the leases; acquisition of interest in trust that held leases necessary for the bank to be eligible to receive federal tax credit).[4]

The alternative form of the transaction in the Project Financing Letter did not change the fundamental substance of the bank's role as a provider of credit-equivalent financing. Other than the form of the interest the bank acquired as the vehicle to provide financing, the transaction addressed in this letter is substantially identical to a loan transaction. The bank represented that its decision whether to enter into the transaction would be based upon a full credit review of the borrower, that the proposed transaction would be made pursuant to the bank's standard loan underwriting criteria, and that the documents governing the transaction would contain many of the same terms, conditions, and covenants typically found in lending and lease financing transactions, including representations and warranties, conditions precedent to the funding pertaining to the mitigation of risks, covenants requiring the company and other investors to provide the bank with customary financial information, and covenants restricting the company from taking certain actions.

Similar to a financing transaction, the bank would be repaid in installments over time. In fact, the form of structured financing for wind energy projects is similar to a production payment

[4] Under 12 U.S.C. 24(Eleventh), national banks may provide financing for low-income housing development projects by acquiring an equity interest in limited partnerships and limited liability companies that hold and develop the properties. Ownership of the equity interests enables the banks to receive federal tax credits.

loan transaction frequently used in oil and gas lending. A production payment loan transaction is a form of lending frequently used in extending credit to the oil and gas industry. These production payment lending transactions, also called "oil/gas reserve based loans" and "oil/gas production loans," are recognized and permitted by the federal banking agencies.[5]

Moreover, the transaction will be regulated and supervised as a loan. For example, as in the case of the 1994 interpretive letter (noted above), the Project Financing transaction will be subject to the lending limits of 12 U.S.C. § 84 and 12 C.F.R. Part 32.

We subsequently made clear that our legal opinion was premised upon the following characteristics of the financing and the bank's role in the financing transaction as represented to us:

- Before advancing funds, the bank would determine creditworthiness of project.
- The creditworthiness review and determination would be made pursuant to the bank's standard loan underwriting criteria.
- Structuring the financing as a membership investment would be essential to the availability of tax credits to the bank and thereby integral to material terms of the financing provided by the bank.
- The project's agreement would contain many of the same terms, conditions, and covenants typically found in lending and lease financing transactions to protect the bank's interests.
- The bank would not participate in operation of the wind energy company, production of the wind energy, nor the sale of the wind energy.

[5] *See* OCC Banking Circular 214, OCC Examining Circular 223, and FRB Commercial Bank Examination Manual 2150.1—Energy Lending—Production Loans. *See also* OCC Interpretive Letter (November 4, 1994) (cited above).

- The bank would acquire approximately 70% of the equity interest in the company, and would look to distributions of revenue from the sale of electricity and the receipt of tax credits and depreciation expense for repayment of the funds advanced and its return on those funds.
- The bank would not share in any appreciation in value of its interest in the wind energy company or any of the company's real property or personal property assets.
- In the event the energy company does not perform as projected (which would enable the bank to obtain repayment of the funds advanced, plus a calculated return), the bank may sell its interest in the wind energy company to minimize or avoid loss on the financing.
- Alternatively, in the event the energy company does not perform as projected, the bank would have the ability to force a vote to liquidate the wind energy company to minimize or avoid loss on the financing.
- At the end of the ten-year holding period, the bank would sell at book value its ownership interest in the wind energy company. It is projected that this value would be a small percentage of the bank's original investment.[6]

III. CONCLUSION

In conclusion, I would like to assure you again that these three letters are limited and specific to the circumstances presented; they do not enable national banks to enter into the real estate investment or development business, nor do they have anything to do with real estate brokerage. Moreover, we fully appreciate the constraints the Gramm-Leach-Bliley Act placed on the ability of national banks' financial subsidiaries to conduct certain real estate activities.

[6] OCC Interpretive Letter No. 1048a (February 27, 2006).

We are mindful of the constraints that Congress, as part of its annual appropriations process, has placed on the joint Treasury Department/Federal Reserve Board rulemaking – to which the OCC is not a party – that would enable national banks and state member banks to conduct real estate brokerage activities using financial subsidiaries. Finally, because of the substantial limitations on the ability of national banks to deal in real estate, these particular interpretations do not undermine the longstanding boundaries between banking and commerce that apply to our nation's banking system.

I appreciate the opportunity to appear before you today, and I would be pleased to answer any questions you may have.

Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

Interpretive Letter #1048a
March 2006
12 USC 29

February 27, 2006

John H. McGuckin, Jr.
Executive Vice President,
General Counsel, and Secretary
Union Bank of California, N.A.
400 California Street, 16th Floor
San Francisco, California 94104

Subject: Interpretive Letter No. 1048 ("IL 1048")

Dear Mr. McGuckin:

In light of questions that have been raised regarding the details, limits, and scope of the financing transaction addressed in IL 1048, and because our previous communications were with outside counsel to the bank, we are writing directly to you to make sure that there is a clear understanding of the restrictions and limitations associated with the financing transaction. Our legal opinion was premised upon the following characteristics of the financing and the bank's role in the financing transaction as represented to us:

- Before advancing funds, the bank would determine creditworthiness of project.
- The creditworthiness review and determination would be made pursuant to the bank's standard loan underwriting criteria.
- Structuring the financing as a membership investment would be essential to the availability of tax credits to the bank and thereby integral to material terms of the financing provided by the bank.
- The project's agreement would contain many of the same terms, conditions, and covenants typically found in lending and lease financing transactions to protect the bank's interests.
- The bank would not participate in operation of the wind energy company, production of the wind energy, nor the sale of the wind energy.
- The bank would acquire approximately 70% of the equity interest in the company, and would look to distributions of revenue from the sale of electricity and the receipt of tax credits and depreciation expense for repayment of the funds advanced and its return on those funds.
- The bank would not share in any appreciation in value of its interest in the wind energy company or any of the company's real property or personal property assets.
- In the event the energy company does not perform as projected (which would enable the bank to obtain repayment of the funds advanced, plus a calculated return), the bank may sell its interest in the wind energy company to minimize or avoid loss on the financing.

- Alternatively, in the event the energy company does not perform as projected, the bank would have the ability to force a vote to liquidate the wind energy company to minimize or avoid loss on the financing.
- At the end of the ten-year holding period, the bank would sell at book value its ownership interest in the wind energy company. It is projected that this value would be a small percentage of the bank's original investment.

We wanted to restate these characteristics so that it is clear that there is no misunderstanding on the bases for our conclusion. As IL 1048 states, our conclusion was based on the information and representations provided to us. A material change could result in a different conclusion.

Sincerely,

Julie L. Williams
First Senior Deputy Comptroller
and Chief Counsel