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## House of Representatives

The House was not in session today. Its next meeting will be held on Monday, February 13, 2017, at 12 p.m.

## Senate

FRIDAY, FEBRUARY 10, 2017

The Senate met at 9:30 a.m. and was called to order by the Honorable SHELLEY MOORE CAPITO, a Senator from the State of West Virginia.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, who inhabits eternity, thank You for also dwelling in contrite hearts.

Today, meet the needs of our lawmakers from Your celestial bounty. Strengthen their hearts in Your ways against temptation and make them more than conquerors in Your love. In all that they say and do, may they seek Your glory, striving for faithfulness in even the small matters of their labors. With Your saving kindness, keep them from stumbling or slipping, preparing them to stand before Your glory without fault or blemish.

We pray in Your strong Name. Amen.

### PLEDGE OF ALLEGIANCE

The Presiding Officer led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. HATCH).

The assistant bill clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, February 10, 2017.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SHELLEY MOORE CAPITO, a Senator from the State of West Virginia, to perform the duties of the Chair.

ORRIN G. HATCH,  
President pro tempore.

Mrs. CAPITO thereupon assumed the Chair as Acting President pro tempore.

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

### EXECUTIVE SESSION

### EXECUTIVE CALENDAR

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to resume consideration of the following nomination, which the clerk will report.

The assistant bill clerk read the nomination of Steven T. Mnuchin, of California, to be Secretary of the Treasury.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. WYDEN. Madam President, the Senate is now debating the nomination of Steven Mnuchin to be the Secretary of the Treasury, and this is yet another

nomination on which the majority has walked away, unfortunately, from a 20-year bipartisan approach when it comes to the vetting process.

In 2009, when Tim Geithner was President Obama's first Treasury nominee, a vetting issue came up and both sides of the Finance Committee carried the investigation out to its conclusion, but the situation has turned out quite differently this time.

There were several properties in the United States and abroad worth \$100 million missing from Mr. Mnuchin's disclosure. He failed to disclose several positions in various firms. He misled the public. He misled the committee about his bank foreclosure tactics, and he appears to have hidden key data requested by Members of this body. Frankly, I don't believe these investigations would have been uncovered at all if not for the work of the minority's investigation team. The majority, however, looked the other way, and the vetting process was ended prematurely. So the vote on this nomination is imminent. That is the first concern held by Members on this side, and I am going to speak more about that today and as this debate continues.

This morning, though, I want to focus on the substance of our concerns.

The single biggest challenge is what to do to reconnect working Americans with this country's economic engine. There are communities across the land, including many in my home State of Oregon where folks are just waiting for economic recovery to show up. They see their homes foreclosed, storefronts boarded up, factories shuttered. They

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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just feel stuck. Aside from the President himself, nobody in America has greater influence over this Nation's economic future than the U.S. Treasury Secretary. That is the case whether it is through tax reform that fights unfairness, rules that rein in Wall Street abuses, or smart infrastructure and trade policies that create good-paying jobs here at home. We call them red, white, and blue jobs.

The person who becomes Treasury Secretary has to be somebody who is ready to work on behalf of all Americans, including those Americans from the corners of our Nation where optimism has dimmed. If Steven Mnuchin's record is any indication, he simply doesn't fit that mold, not even close.

There is a lot to debate as the Senate considers Mr. Mnuchin's nomination. Particularly significant, in my judgment as the ranking member on the Senate Finance Committee, is the issue of how our Tax Code punishes wage-earning Americans. I am going to cover that this morning. In my view, though, the debate begins with the story of OneWest, Mr. Mnuchin's bank. It begins with a lot of gory details of how OneWest industrialized the process of kicking people out of their homes and onto the streets, and it begins with the details of how Mr. Mnuchin enriched himself at the same time his foreclosure machine was running.

As I described, the financial crisis was a personal setback from which a lot of Americans still have not recovered, but for Mr. Mnuchin, it wasn't exactly a setback at all. In fact, it was the deal of a lifetime. In March, 2009, Mr. Mnuchin led a group of investors who bought IndyMac Bank, one of several banks that had been engulfed in crisis the year before.

Mr. Mnuchin and his group got an unusually sweet deal from the Federal Deposit Insurance Corporation, buying \$23.5 billion worth of assets for less than \$1.6 billion. IndyMac was renamed OneWest Bank and it opened up shop the very next day.

As part of this sweetheart deal, Mr. Mnuchin got what is known as a Shared-Loss Agreement from the Federal Deposit Insurance Corporation. Under the deal with OneWest, the Federal Deposit Insurance Corporation made nearly \$900 billion in payments to OneWest for IndyMac loans. Total payments from the Federal Deposit Insurance Corporation to OneWest, including payments for loans made to OneWest subsidiaries First Federal, La Jolla, and Financial Freedom, were \$1.22 billion.

It didn't take long after Mr. Mnuchin rolled out the newly branded OneWest for the bank to be investigated by State attorneys general around the country. Already they had big concerns about OneWest's foreclosure practices, and this, in my view, is where you see the guts of the foreclosure machine beginning to show itself.

As part of this investigation, a OneWest vice president who worked

under Mr. Mnuchin, Erica Johnson-Seck, admitted under oath to the practice known as robo-signing. This witness said she signed more than 750 foreclosure documents a week without reading them and with no notary present during the process. That is a violation of the law. When asked how much time she spent executing each foreclosure document, Ms. JOHNSON-SECK replied: "I changed my signature considerably. It's just an E now. So not more than 30 seconds."

It was not just Ms. Johnson-Seck. She was part of an entire team operating at this pace. In her deposition, Ms. Johnson-Seck stated there were about 1,100 documents signed by her office each day, or roughly 6,000 a week.

So amid an economic meltdown—our Nation shedding hundreds of thousands of jobs, families facing an uncertain future—Mr. Mnuchin found a way to profit. He bought a bank from the Federal Deposit Insurance Corporation at an extreme discount. He struck a deal with the Federal Deposit Insurance Corporation so he could be reimbursed for 80 percent or more of the bank's losses. He had at least one team in place that could sign 6,000 foreclosure documents a week—6,000 individuals and families a week thrown into this nightmare of potentially losing their homes. Mr. Mnuchin and OneWest were churning out foreclosures with ruthless efficiency. That doesn't sound to me like somebody who is going to be the kind of person who is going to look out for the interests of working families.

I want to talk a little bit about some who were victimized by OneWest's industrialized foreclosure. One of those was Dee Roberson, who in 2010 shared her story with the Orlando Sentinel. Ms. Roberson told them her parents were struggling to pay off the balance of their mortgage with OneWest. The mortgage had a balance of just \$3,000, and Ms. Roberson was trying to help her parents get to the finish line, but instead of the usual mortgage payment of \$600, OneWest demanded over \$1,000 a month. OneWest said the home was in foreclosure and wanted \$4,000 in attorneys' fees, but the Robersons had never received a foreclosure notice. When Ms. Roberson called OneWest to sort things out, it was just one big runaround.

Gerald Lembach is an Army retiree who needed cash to finish an addition on his modest ranch-style home in Pasadena, MD. He and his wife had owned their home for 23 years. According to a story in the Baltimore Sun, Mr. Lembach discovered the monthly cost for the new loan was much higher than what he expected. Instead of the \$3,200 monthly bill he anticipated, it was almost \$4,300. OneWest, which took over the servicing of Mr. Lembach's loan in 2009, denied his request for a modification in October 2010, a month after it had started foreclosure proceedings. He struggled with the process, and he hired an attorney who noticed something that struck him as very odd. Signatures on the foreclosure

documents were fakes. In fact, various foreclosure processors around the State of Maryland had been signing under the same lawyer's name, but even with this discovery of false signatures, it didn't bring about the speedy modification that Mr. Lembach was hoping for.

Rose Gudiel and her family bought a small house in 2005, making payments on the mortgage until her brother was murdered in 2009 and the family lost his income. The next mortgage payment was 2 weeks late. OneWest said it wouldn't accept it, and Ms. Gudiel had to apply for a loan modification instead, but OneWest didn't actually own the mortgage, they were only servicing it. They didn't even have the authority to grant a modification. So this citizen was caught in limbo for 2 years, unable to modify the loan and at the same time had to fight eviction.

Out of options, Ms. Gudiel and a group of protestors went to Mr. Mnuchin's home, protesting outside and demanding answers. Shortly thereafter, despite OneWest's claim that there was nothing they could do to help Ms. Gudiel, they relented. She was allowed to keep her home, but it took essentially a four-alarm public relations calamity to make that happen.

Mark and Jenny Gin are another case Mr. Mnuchin may have heard about. The Gins sued OneWest in San Mateo Superior Court, and they won.

I will just describe a little bit from the San Francisco Chronicle how their case played out. While the Gins were making dozens of calls and submitting reams of paperwork to get a loan modification from OneWest, another department of the bank proceeded to foreclose on their home. This is especially important because this is a phenomenon known as dual tracking.

OneWest strung the Gins along for months before telling them just to send in their loan modification application. They said the Gins would have an answer in 30 to 60 days. But instead of a modification, they got an eviction notice. They were forced out of their home while Ms. Gin was 8 months pregnant and grappling with a breast cancer diagnosis.

They were left with no choice but to take OneWest to court. Their legal battle stretched more than 2 years. The costs were so substantial that even a victory in court could not save their home.

Those are all examples of typical mortgages—everyday homeowners caught up in OneWest's exceptional and ruthless foreclosure practices.

But it wasn't just your typical mortgage that OneWest foreclosed upon; the bank had a big reverse mortgage operation called Financial Freedom, and the foreclosure machine was running and running and running over there too.

The goal of a reverse mortgage is to give older people—62 or older—the opportunity to use the equity in their homes to help cover the bills. Unfortunately, it doesn't always go smoothly.

In OneWest's reverse mortgage division, it often went terribly wrong.

A lot of older couples of modest incomes who got reverse mortgages put them under only one name, often the husband's. But here is the catch: If the person whose name appeared on the documents passed away, the terms of the reverse mortgage required the loan to be paid back in full. If it wasn't, then the foreclosure process once again kicks in.

So you have a family where first they lose their loved one, then they lose their home, and they are caught up in this nightmare scenario of a reverse mortgage. A common name for this practice—it almost hurts to say it—is “widow foreclosure.” Widow foreclosure.

According to documents reviewed by the California Reinvestment Coalition, during the first 6 years Mr. Mnuchin ran OneWest, the bank accounted for nearly 40 percent of all federally insured reverse mortgage foreclosures. They led the Nation in widow foreclosures.

You know, if you think about what you can lead the Nation in and you are thinking about trying to help hard-hit families, the kinds of families I just described, I would like to lead the Nation in terms of reaching out and finding imaginative ways to help them, to really go to bat for them, take them through the process, create something that is fair and commonsense.

What does this bank do? They lead the Nation in widow foreclosures.

In one case, OneWest and its predecessor tried to foreclose on an elderly Florida woman. That was twice. The first time, Mr. Mnuchin's bank tried to foreclose on her home and filed paperwork saying she didn't live there. When they finally discovered she, in fact, did live in the home, they backed off. Two years later, OneWest's new parent company, CIT, where Mr. Mnuchin was a board member, tried to foreclose again. This time it was over an unpaid bill of 27 cents.

This involved a woman who was 90. A woman who was 90 was involved in a foreclosure with an unpaid bill of 27 cents. She had to fight to keep her home twice because she was bombarded with petty and inaccurate allegations from Mr. Mnuchin's bank.

The President recently tweeted out an allegation that this story was “fake news” because the elderly woman never actually lost her home. The ordeal that OneWest's foreclosure machine put her through certainly was not fake news to her and others who were up against this activity.

While OneWest was putting thousands of homeowners through the nightmare of foreclosure, Mr. Mnuchin used the bank's money to make some pretty flashy investments in Hollywood. In September 2012, OneWest led a group of financial institutions that established a revolving credit facility for Relativity Media of hundreds of millions of dollars. Relativity was a movie

studio led by a flamboyant executive named Ryan Kavanaugh.

Press accounts also claim that Mr. Mnuchin and Mr. Kavanaugh became good friends. In fact, even though Mr. Kavanaugh was a client who owed his bank hundreds of millions of dollars, he and Mr. Mnuchin bought a private jet together and then traveled to various kinds of film festivals around the world. They were even investing in real estate together. They put millions into a shell company, HMBAC LLC, which owned property in Southern California.

In October of 2014, Mr. Mnuchin decided to buy into Mr. Kavanaugh's movie studio himself. He purchased a stake. He was appointed cochairman of Relativity.

So while he was pulling double duty on the boards of OneWest and Relativity, OneWest had to report the size of the insider loans the bank was making to Relativity. As a share of bank capital, OneWest's insider loans exceeded 94 of the country's 100 biggest financial institutions.

Unfortunately, Mr. Mnuchin's time with Relativity didn't go so hot. Each year from 2012 to 2014, the studio suffered eight- or nine-figure losses. Finally, in 2015, Relativity's problems came to a head, but it owed OneWest and Mr. Mnuchin a huge sum of money.

On May 29, 2015, Mr. Mnuchin quit the board. A few days later, funds totaling \$50 million in cash were swept back to OneWest from several Relativity operating accounts. One of those accounts was earmarked to pay guild expenses—salaries for everyday contractors and production tradespeople. That put the nail in Relativity's coffin, and the studio declared bankruptcy.

Mr. Mnuchin's adventure of putting OneWest money into Relativity might have been a big mess, but it sure didn't do much damage to the bank's bottom line.

Around the time Relativity crumbled, OneWest was purchased by an even bigger group, the CIT Group, at a massive profit. Mr. Mnuchin and his investors originally bought the bank in 2009 for less than \$1.6 billion. In 2015, CIT Group bought it from Mr. Mnuchin and his partners for \$3.4 billion.

In between, while tens of thousands of Americans were going through this daily nightmare of losing their homes, the bank had paid out more than \$1 billion in dividends to Mr. Mnuchin and its other owners.

Buying OneWest was literally the deal of a lifetime for Mr. Mnuchin, but the bank's conduct caught the attention of Federal watchdogs more than once. In 2011, the Office of Thrift Supervision conducted an examination of OneWest's foreclosure process, and I am just going to outline a few of the findings. These are the findings of the Office of Thrift Supervision, which is in the business of monitoring and examining these institutions.

They found, for example, that OneWest employees filed affidavits in

State and Federal courts, falsely stating that they had conducted a review and had personal knowledge regarding the details of a disputed mortgage, including principal and interest due or other fees and expenses when no such reviews had taken place.

OneWest employees filed documents in State and Federal courts that had not been signed or affirmed in the presence of a notary.

OneWest litigated foreclosure and bankruptcy proceedings without ensuring that the promissory notes were properly endorsed or assigned and in possession of the appropriate party at the appropriate time.

OneWest failed to devote sufficient resources to the administration of its foreclosure and loan modifications procedures.

OneWest management failed to enact adequate internal oversight and controls to its foreclosure processes.

Finally, OneWest failed to adequately oversee the outside lawyers handling foreclosure-related services.

The Office of Thrift Supervision also demanded that OneWest take corrective action, and it issued what is known as a consent order. Basically in English, this OneWest consent order was an agreement to clean up its act. The order was signed personally by Mr. Mnuchin and the OneWest board of directors. They had been running OneWest for 2 years at this point, and the company was rife with problems.

In 2014, another watchdog stepped in. This time, it was the Office of the Comptroller of the Currency. Their audit found that more than 10,000 OneWest borrowers were due \$8.5 million for improper foreclosure practices. According to the same report, OneWest paid nearly \$3 million to 54 borrowers for violations of the Servicemembers Civil Relief Act, which protects members of our armed services from losing their homes while they are serving our country.

So just think about that one. Here is the bank having to pay borrowers \$3 million for violations of the Servicemembers Civil Relief Act. This is what protects the courageous people who serve our country. It is a law that protects these people from losing their homes while they put themselves at great risk, may make the ultimate sacrifice, and every day, their families at home are worrying about them and often worrying about their finances.

According to this report, OneWest paid nearly \$3 million to 54 borrowers who violated this law that protects the courageous men and women who wear the uniform of the United States.

At the heart of these investigations was the issue of robo-signing, the practice I have spoken about earlier in the context of the OneWest team churning out 6,000 foreclosure documents a week. Senator CASEY and Senator BROWN on our committee really zeroed in on this issue. And it was particularly concerning in this context to Senator CASEY, who represents a lot of people

who lost their homes to foreclosures by Mr. Mnuchin's bank.

So Senator CASEY put the question to Mr. Mnuchin in writing after Mr. Mnuchin had his Finance Committee hearing. Senator CASEY asked pretty simply: Did OneWest robo-sign documents?

This was a straightforward question, and based on the public record, the answer should have been a straightforward "yes." Instead, Mr. Mnuchin replied, "OneWest Bank did not robo-sign documents."

Years of documented proof say that is false. So the committee gave Mr. Mnuchin an opportunity to amend his response. Once again, Mr. Mnuchin denied—denied—the truth. First he said, "The concept of 'robo-signing' generally referred to two distinct but related issues: (a) a signer of a foreclosure affidavit attested to facts that were not verified to be accurate; or (b) a signer of a foreclosure affidavit represented himself or herself to be someone else."

So that is a fancy way to explain. When we gave him an opportunity to amend his answer, Mr. Mnuchin again denied the truth on this question of OneWest robo-signing documents.

And he went on to say, "OneWest did not do these things."

There is just no way of getting around it—none. That statement is flat wrong.

The language Mr. Mnuchin used to redefine robo-signing is nearly identical to the language used by the Office of Thrift Supervision in the findings of its investigation. Given the watchdogs report, testimony from OneWest employees, and the public record, Mr. Mnuchin cannot possibly, in good faith, claim that OneWest did not robo-sign. In fact, Mr. Mnuchin's signature is on one of the documents that proves otherwise, the Office of Thrift Supervision consent order. He ran the bank. Surely, he had to read the document before signing it. So Mr. Mnuchin misled the Finance Committee and the American people on robo-signing, directly contradicting a mountain of evidence.

Senators CASEY and BROWN represent States where a lot of families were hammered through foreclosures pursued by Mr. Mnuchin's bank. Senator CASEY and Senator BROWN decided to do some more digging into the information. Senator CASEY sought OneWest national foreclosure figures. Senator BROWN asked for a State-by-State breakdown. This information was never provided.

At first Mr. Mnuchin said he just couldn't get the data. Then Senator HELLER made a similar request. It seems Mr. Mnuchin answered sufficiently to satisfy Senator HELLER, whose State had a large number of OneWest foreclosures. So in my mind, that raises a question about why a Republican Senator could get his inquiry answered but a pair of Democrats could not.

Getting other basic facts from Mr. Mnuchin was pretty much like a pain-

ful time at the dentist, pulling teeth. Here is an example. The Finance Committee requested nominees "list all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution."

When Mr. Mnuchin filed his paperwork with the committee, he signed them, attesting that the document was true, accurate, and complete. However, it became apparent to committee staff that key information was missing. In particular, SEC filings indicated that Mr. Mnuchin was director of Dune Capital International, an entity located in the Cayman Islands. It was nowhere to be found in Mr. Mnuchin's paperwork. He also failed to disclose his role as chairman and CEO of the OneWest Foundation, an entity that is alleged to have made generous donations to groups that publicly endorsed OneWest's controversial purchase by CIT Group. He even failed to report that he had been chairman of IMB HoldCo, the holding company that he used to purchase IndyMac, the bank that he turned into OneWest. All told, after questions were raised by the Finance Committee's staff, Mr. Mnuchin disclosed that he held positions in an additional 14 entities that were not listed on his initial paperwork.

Here is an example of Mr. Mnuchin's failure to fully disclose his various investments. The Finance Committee requests that all nominees list "the identity and value of all assets held, directly or indirectly, with a value in excess of \$1,000." That is pretty straightforward. "The identity and value of all assets held, directly or indirectly, with a value in excess of \$1,000" was to be disclosed. Mr. Mnuchin failed to do this as well. On his initial paperwork, committee staff noted that Mr. Mnuchin listed membership in a vacation resort in Mexico, but he didn't disclose any related property. That was only the first case of missing Mnuchin real estate. After questioning by committee staff, Mr. Mnuchin disclosed still more missing Mnuchin real estate—an additional \$95 million in real estate holdings that had not been listed on his initial paperwork. The fact is, the committee had to take the time and ask the questions to track down these multimillion dollar properties. Mr. Mnuchin's unreported businesses, and his undisclosed business relationships.

Again, I am convinced that none of what I have described, these undisclosed assets—these substantial and undisclosed assets—would ever have been brought to light if it wasn't for the work of the committee's minority staff investigators. Yet despite these efforts, Mr. Mnuchin still has never produced the information requested by two members of the Finance Committee, Senators CASEY and BROWN, concerning the OneWest foreclosures.

My view is that this is another nominee who has the ethics alarm bell

sounding. He has already misled the public. He appears to be concealing information requested by Members of this body, and his claim to fame is the cold and staggering efficiency with which his bank booted predatory lending victims out of their home. I just don't think this is the type of person who should lead the Treasury Department.

Because we will have further discussion on this, I simply close speaking about the kind of person I want to see head the Treasury Department. I note that I have supported a number of Republicans for this particular position in my time on the Finance Committee. I want the kind of person who is going to give everybody in America the opportunity to get ahead. We are going to have more discussion about taxes and particularly important in this role will be the Treasury Secretary's view of taxes.

We have a Tax Code that is really a tale of two systems. If you are a cop or a nurse in West Virginia or in Oregon, your taxes are compulsory. Once or twice a month your taxes are just lifted out of your paycheck because you are a working person. That is the way it works in West Virginia. That is the way it works in Oregon.

But if you have a battery of financial experts, it doesn't work that way. You can use that battery of financial experts to pay what you want, when you want to, and, maybe, not much at all. For this position I want somebody who feels passionately about giving everybody in America the opportunity to get ahead, who really understands what a priority it is to work to bring economic recovery to those communities dimmed by hardship and suffering folks. I know there are a number of people like that in the State of the Acting President pro tempore of the Senate, and there sure are a lot of them in my home State of Oregon. A lot of those rural communities just feel like they have been hit by a wrecking ball. That is the kind of Treasury Secretary I want—a Treasury Secretary who gives everybody in America the opportunity to get ahead.

Thus far, I just don't see Mr. Mnuchin fitting that mold. We will go on to talk about other issues next week, particularly, his view with respect to taxes. We will have further discussion on it next week.

I urge my colleagues to oppose this nomination.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SULLIVAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRIBUTE TO ALEXANNA SALMON

Mr. SULLIVAN. Madam President, these past few weeks, I have had the