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ONE HUNDRED TENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-3951
<http://www.house.gov/judiciary>

October 28, 2008

The Honorable Michael B. Mukasey
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

The Honorable Robert S. Mueller, III
Federal Bureau of Investigation
U.S. Department of Justice
935 Pennsylvania Avenue, NW
Washington, DC 20535

Dear Mr. Attorney General and Director Mueller:

We write to request detailed information about the Department of Justice's investigation of mortgage fraud. Given the central role of mortgage fraud in our Nation's current economic crisis, we are concerned that the Department's action on this issue has been unduly delayed and underfunded. Recent news reports have indicated that the Department and the Bureau have only recently begun to devote additional resources to the investigation of mortgage fraud, and that even with these increased resources, the Bureau might not have sufficient resources to investigate mortgage fraud and is struggling to handle this financial crisis.¹

This is of particular concern in that, as early as 2004, FBI officials warned that mortgage fraud posed a looming threat.² Notwithstanding these early warnings and Bureau requests for additional resources to combat the problem, the Department and the Office of Management and Budget (OMB) rebuffed the requests for additional agents to investigate mortgage fraud, in favor of an increased focus on counterterrorism.³

We are struck by the fact that the state attorneys general – not the Department of Justice –

¹ See, e.g., Lynnley Browning, "Mortgage Inquiries Focusing on Florida," N.Y. TIMES, Oct. 16, 2008; Eric Lichtblau, David Johnston & Ron Nixon, "F.B.I. Struggles to Handle Financial Fraud Cases," N.Y. TIMES, Oct. 19, 2008.

² Eric Lichtblau, David Johnston & Ron Nixon, "F.B.I. Struggles to Handle Financial Fraud Cases," N.Y. TIMES, Oct. 19, 2008; Richard Schmitt, "FBI saw threat of mortgage crisis," L.A. TIMES, Aug. 25, 2008.

³ *Id.*

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have appeared to take the lead in addressing legal aspects associated with some of the major lenders, as illustrated by the recent settlement agreement between certain states and Bank of America to modify the subprime and adjustable-rate mortgages that Countrywide Financial serviced.

We further note that the Department seemed resistant to devoting its resources to this serious problem when, earlier this year, it declined to create a U.S. Task Force to investigate mortgage fraud. At that time, Mr. Attorney General, you likened the problem to “white-collar street crime.”⁴ In short, a national crisis requires a national response, and the Department has yet to convince us that it did, and is doing, its part to adequately and promptly respond. Our concern regarding this issue is also buttressed by the recent October 20, 2008 bipartisan letter that more than thirty Members of Congress sent to you, Mr. Attorney General, requesting that you open criminal investigations into potential financial crimes that contributed to our economic crisis, including mortgage fraud.⁵

It is in the context of these foregoing concerns that we request that you respond to the following questions and document requests:

Questions

1. A recent New York Times article reported that “[t]he F.B.I. . . . has said that the [mortgage fraud] schemes it is investigating involve material misstatements, misrepresentations or omissions relied upon by an underwriter or lender to finance, purchase or insure a loan.”⁶ This description seems to focus primarily on fraud committed by the borrower in connection with loan applications. Absent is any reference to frauds committed by appraisers, loan officers, mortgage brokers, mortgage originators that sold these loans to the trusts (such as The Money Store and Ameriquest), and all the other entities involved in issuing loans and then marketing them to others. Please provide the guidelines (including the FBI memoranda that contain the definitions) that the FBI uses to describe what it considers “mortgage fraud,” and provide information as to how

⁴ Eric Lichtblau, “*Mukasey Declines to Create a U.S. Task Force to Investigate Mortgage Fraud*,” N.Y. TIMES, June 6, 2008; *see generally*, Eric Lichtblau, David Johnston & Ron Nixon, “*F.B.I. Struggles to Handle Financial Fraud Cases*,” N.Y. TIMES, Oct. 19, 2008.

⁵ Letter from Congressman Ted Poe and thirty Members of Congress to the Hon. Michael Mukasey, Attorney General of the United States (October 20, 2008) (on file with the House Committee on the Judiciary).

⁶ Lynnley Browning, “*Mortgage Inquiries Focusing on Florida*,” N.Y. TIMES, Oct. 16, 2008.

the FBI has prioritized and is prioritizing its investigations into the various types of fraud.

2. Reports suggest that the Bureau intends to double the number of agents working on financial crimes by reassigning several hundred agents.⁷
 - A. Please provide information by an appropriate statistical measure as to the number of agents who have been assigned to mortgage fraud since 2004. (In addition, please provide information as to whether the agents assigned to “mortgage fraud” were exclusively assigned to that crime, or whether they were assigned more generally to “white collar” crime, of which mortgage fraud is simply one component.)
 - B. Please provide information as to any recent or intended reassignments of personnel to combat mortgage fraud, including the nature of the reassignments, and the sections from which these resources have been reassigned.
 - C. Please provide information as to the number of mortgage fraud investigations that have been opened/closed from 2004 to the present.
3. Why did state attorneys general take the lead in reaching the settlement with Bank of America? What role, if any, did the Department play?
4. What resources have been devoted to the FBI’s investigations into Freddie Mac, Fannie Mae, American International Group (AIG), and Lehman Brothers?

Document Requests

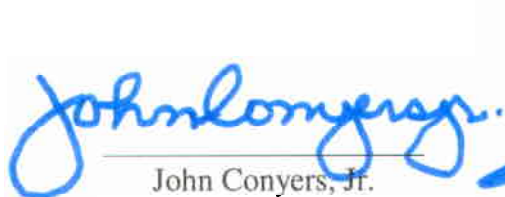
1. Please provide copies of all documents (including, but not limited to, e-mails) from 2003 to the present relating to the Bureau’s requests for additional resources to investigate mortgage fraud, including, but not limited to, budget requests within the Bureau, budget requests that the Bureau sent to the Department and OMB, and Department and OMB responses (including, but not limited to, e-mails) to the Bureau’s budget requests.
2. Please provide copies of all documents (including, but not limited to, e-mails), as well as materials and intelligence assessments used to brief the FBI Director, Deputy Director, and Assistant Directors regarding mortgage fraud for the years 2003 to the present.

⁷ Eric Lichtblau, David Johnston & Ron Nixon, “*F.B.I. Struggles to Handle Financial Fraud Cases*,” N.Y. TIMES, Oct. 19, 2008.

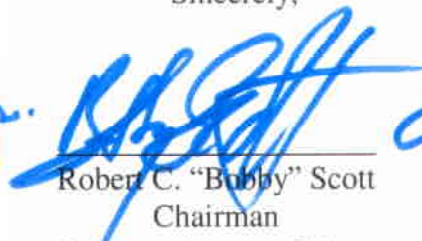
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We request that you provide the requested documentary materials and other information to us by Monday, November 10, 2008. Responses and any questions should be directed to the Judiciary Committee office, 2138 Rayburn House Office Building, Washington, DC 20515 (tel: 202-225-3951; fax: 202-225-7680). Thank you for your cooperation in this matter.

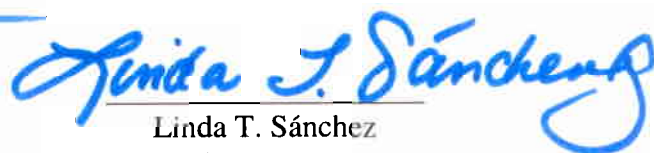
Sincerely,



John Conyers, Jr.
Chairman



Robert C. "Bobby" Scott
Chairman
Subcommittee on Crime,
Terrorism, and Homeland
Security



Linda T. Sánchez
Chairwoman
Subcommittee on Commercial
and Administrative Law

cc: Hon. Lamar S. Smith
Hon. Louie Gohmert
Hon. Chris Cannon
Richard Powers
Keith B. Nelson