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October 4, 2010

The Honorable Timothy Geithner
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington DC 20220

Dear Mr. Secretary,

I have long been aware of the misconduct taking place at some of our nation's mortgage servicing companies, and have been an advocate on the need to reform our mortgage servicing industry. Therefore, though I was not surprised, I was deeply concerned to learn that an employee of Ally Financial Inc.'s GMAC mortgage unit admitted in sworn depositions that he signed off on thousands of foreclosure documents a month without reviewing them. JPMorgan Chase's mortgage unit, Chase Mortgage, made a similar admission on Wednesday. This weekend Bank of America acknowledged problems with its foreclosures. All of these companies have suspended foreclosures until they are able to investigate the scale and nature of misconduct with regard to thousands of foreclosures.

While I am pleased that John Walsh, acting director of the Office of the Comptroller of the Currency (OCC), has required 7 of the nation's mortgage servicers to review their procedures for processing foreclosures, I remain concerned about the extent of this fraud and the impact on homeowners who may have been improperly foreclosed upon. I am also concerned about the extent to which this type of fraud is pervasive throughout our foreclosure system.

The Home Affordable Modification Program (HAMP) was designed to stop foreclosures; however, these revelations show that the system is, indeed, stacked against the homeowner and that some servicers are moving forward with foreclosures that may be illegal.

In June, new guidance to require servicers to evaluate homeowners for HAMP prior to foreclosure went into effect. The guidance also required servicers to

- ensure that their foreclosure attorney/trustee adheres to all of the requirements of this Supplemental Directive with respect to referral to foreclosure, stay of foreclosure actions and suspension of foreclosure sales; and

- develop and implement written procedures applicable to all loans that are potentially eligible for HAMP (and are subject to the Borrower Solicitation requirements of this Supplemental Directive) that require the servicer to provide to the foreclosure attorney/trustee a written certification that (i) one of the five circumstances under the “Prohibition on Referral and Sale” section of this Supplemental Directive exists, and (ii) all other available loss mitigation alternatives have been exhausted and a non-foreclosure outcome could not be reached.¹

Given the admission by Ally Financial that their attorney did not review thousands of foreclosure documents, I have serious concerns that these directives were adhered to by that company. I am also concerned about the extent to which these directives are being followed by the nation’s mortgage servicers in general. The Government Accountability Office (GAO) recently found that many participating servicers failed to comply with many of Treasury’s guidelines and that the Treasury has yet to fine any servicers for noncompliance.²

Therefore, I ask that you take the following actions to protect America’s homeowners and to ensure the best use of the taxpayer funds that support HAMP:

- First, the Department should specifically examine the extent to which Ally Financial/GMAC, JP Morgan Chase, and Bank of America violated their HAMP contracts with the Treasury. To the extent noncompliance is found, Treasury should take appropriate action, including fines, penalties, and the recapture of incentive payments, if any.
- Second, the Department should direct all of its participating servicers to halt all foreclosures pending the completion of a review of their foreclosure procedures. While the OCC has directed 7 servicers to conduct such a review, the Treasury should direct all servicers participating in HAMP to conduct a review.
- Third, the Department should issue clear guidance regarding how servicers should process foreclosures for homeowners who do not qualify for HAMP.

¹ Supplemental Directive 10-02.

² “GAO-10-634: Troubled Asset Relief Program: Further Actions Needed to Fully and Equitably Implement Foreclosure Mitigation Programs,” Government Accountability Office, June 24, 2010.

I look forward to working with you to ensure that mortgage servicers are operating in accordance with all relevant laws and regulations, and that homeowners are not subject to wrongful foreclosures. Please respond to this letter no later than Tuesday, October 12th with an update on your progress in implementing the actions described above. Please contact me or Charla Ouertatani of my staff at 202-225-2201 with any questions about this letter.

Thank you for your prompt attention to this urgent matter.

Sincerely,

A handwritten signature in cursive script that reads "Maxine Waters". The signature is written in black ink and is positioned to the left of the typed name.

Maxine Waters
Chairwoman
Subcommittee on Housing and Community Opportunity