

Statement of Senator Richard C. Shelby
Committee on Banking, Housing and Urban Affairs
November 16, 2010

- Thank you Mr. Chairman.
- On October 6th, I called for an investigation into the growing controversy surrounding home foreclosures. This hearing represents what I understand will be the only examination the Committee intends to conduct. I hope that isn't the case.
- At this point, there appear to be a number of key issues that need to be examined thoroughly.

- First, we need to determine the extent of the problem. It appears that thousands of so-called “robo-signers” working on behalf of banks that service loans, signed foreclosure related court documents swearing that they had “personal knowledge” of the facts of each foreclosure case. It now appears that few, if any, of these people had such knowledge.
- Second, we need to determine whether the flaws in the process led to improper results. In other words, were any homeowners foreclosed upon when they shouldn’t have been.

- Third, we need to examine the activities of the law firms that worked for the servicers. Many questions have been raised regarding the conduct of these firms during their engagement in foreclosure proceedings.
- Fourth, what role did the GSEs and the larger securitization market play in this debacle. Did their actions contribute to the problem? Were Fannie and Freddie complicit in any way?
- Finally, we need to examine the role of the regulators. Where were they in this process? What were they supposed to be doing and were they doing it? If not, why not?

- In order to determine the extent of the problem we need to speak with all of the major servicers. Unfortunately, we only have a small subset present today. For example, Ally Financial was the first major servicer to recognize that it had problems with its process. That firm, among others, is not here today.
- Mr. Chairman, it is my understanding that many, if not all, of the law firms under investigation were selected by the housing GSEs. In order to best understand how and why these firms were chosen, I believe we need to hear from Fannie and Freddie.

- Unfortunately, they also didn't make the witness list.
- Perhaps the most complex facet of this examination involves securitization. As highlighted in the Congressional Oversight Panel's most recent report, the most severe potential fallout from this will be found in the securitization market. According to that report, this could have a devastating affect on our broader financial system.
- On this critical topic we have a professor from Georgetown University, the Iowa Attorney General, and finally the CEO of MERS.

- Each witness has an important view point to share with the Committee, but none of them represent the views or expertise of the securitizers. Given the complexity of this issue, perhaps the Committee should have invited someone from the broader securitization community to answer our questions.
- Finally, the regulators are also significant players in this examination. Each of the major servicers have regulators on-site in their operations.

- How did those regulators miss the widespread foreclosure problems at the firms they were regulating? We could ask them, but, unfortunately they are not here today.
- Mr. Chairman, I expected this hearing to be focused on the foreclosure process. As I have already stated, there is a great deal to examine on this topic alone.
- It appears, however, that this hearing has also become a foreclosure mitigation hearing. Mortgage modification is an important topic to be sure, and certainly one that warrants its own hearing.

- Nonetheless, if we are also going to examine the issue of foreclosure mitigation, we should study the extent to which borrower fraud has distorted the modification process and inflated overall foreclosure numbers.
- This is a critical issue considering that the U.S taxpayer has spent more than \$50 billion on foreclosure mitigation programs. We need to know where our mitigation efforts are best directed and where our money is being wasted as a result of fraud. I understand that there are no witnesses here today that can address the topic of borrower fraud.

- Mr. Chairman, I called for a full investigation on this matter in early October because I believed that those who face foreclosure should, at the very least, know that the process is being handled fairly and according to the law. While I believe that we will learn a great deal from this hearing, I hope that it does not represent the Committee's complete examination of this important issue.
- Thank you.