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January 26, 2017

United States Senate

Dear Senator,

Treasury Secretary nominee Steven Mnuchin's sworn testimony before the Senate Finance Committee raises questions as to whether there has been a serious mistreatment of the truth regarding his bank's foreclosure practices.

Since his history with foreclosures figures prominently in his confirmation, and since the integrity of testimony of any witness must be guarded zealously by the Senate, we urge that this issue be considered carefully. We note that this issue comes in his written testimony. Written testimony naturally reflects more care and attention to detail than oral responses, which can be subject to spontaneous and/or inadvertent error.

In his written testimony, Mnuchin acknowledges that "we were forced to foreclose on senior citizens even when they only owed \$1." Alone, such an acknowledgement is startling. It is startling that a nominee to high office would find it acceptable to make such an acknowledgement and do so on a national platform. It is startling that it is also true. Certainly no business executive of any conscience could possibly evict a senior citizen from her home over one dollar.

We do not question the sincerity of this particular statement. Before the November elections, the National Consumer Law Center released a series of case studies about foreclosures in the arena where Mnuchin eventually testified.¹ (This was well before Mnuchin became the Treasury nominee.)

Here is the case study of a 92-year old woman NCLC identifies as O.L. from Lakeland, FL.

Client is very feeble and has a very difficult time getting around. She also has poor eyesight. Her children are trying to help her as much as possible. Her servicer, Financial Freedom/CIT Bank, first filed a non-occupancy case regarding her home of 40 years. They figured out their mistake when we explained she was living in the home, and voluntarily dismissed that foreclosure.

¹ *Senior Homeowners Are Struggling with HUD's Limits on HECM Loss Mitigation*, NATIONAL CONSUMER LAW CENTER (November 2016) http://www.nclc.org/images/pdf/foreclosure_mortgage/reverse-mortgages/ib-hecm-examples-loss-mitigation.pdf

Then they said she failed to maintain insurance for a short period of time. The payment for the Force-Placed Insurance was initially noted as a loan balance transfer that she did not need to repay. Then the servicer unilaterally decided they would seek payment from her instead. She sent them a check but it was 30 cents short. They sent her a bill for the 30 cents. She did not read it correctly because of her limited vision and sent them a check for 3 cents. They foreclosed based upon the 27 cent delinquency. It is difficult to understand why a servicer would initiate foreclosure in this situation rather than working with the HECM borrower, who clearly could have sent an additional 27 cents.

As this case is only one of thousands under Mnuchin's oversight, any senator who supports his nomination must be able to explain why this is conscionable behavior.

While we do not question the cold fact of these foreclosures, we do question the integrity of Mnuchin's justification. He states that the federal government forced this heartless practice. "In 2015, when HUD issued Mortgagee Letter 2015-11, I wrote to HUD and asked them to change the policy so that we would not be forced to foreclose on senior citizens who were behind only small amounts on taxes and insurance . . . Unfortunately, HUD did not see it my way, and we were forced to foreclose on senior citizens even when they only owed \$1. Not complying with these HUD policies would have subjected the bank to penalties and losses from HUD."

The HUD letter to which Mnuchin refers was published April 23, 2015.² This is well after thousands of foreclosures by Financial Freedom, which Mnuchin controlled. It is a year after the episode involving the Lakeland, Fl. woman. Simply as a matter of timing, this letter cannot be the reason for these foreclosures.

In fact, the letter that Mnuchin references replaced previous guidance from HUD (2011-07) that *mandated* the very type of forbearance that Mnuchin falsely claims to have practiced. That letter states: "It is only after all applicable loss mitigation strategies have been exhausted" that a bank may attempt to make a claim on its government insurance. "It is HUD's goal to avoid foreclosures as a result of unpaid property charges." Further, this letter, which governed government insurance during the majority of Mnuchin's foreclosure practices, actually establishes a timetable for working with clients that fall behind in paying property taxes. If the amount is \$1, the table allows up to three months in a repayment plan.³ Again, HUD did not force Mnuchin to foreclose on a client because she owed \$1. It declared that his bank could work with her for a full three months to find this amount.

Mnuchin sold OneWest and its Financial Freedom affiliate to CIT in July 2015, only a few months after the letter he cites as precipitating the foreclosures of the previous years. He did join the board of the CIT so that the practices he claims are mandated by the 2015 HUD letter covered some of this period. Financial Freedom foreclosures indeed became prominent among NCLC case officers. One officer

² *Loss Mitigation Guidance for Home Equity Conversion Mortgages* U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (April 23, 2015) <https://portal.hud.gov/hudportal/documents/huddoc?id=15-11ml.pdf>

³ *Home Equity Conversion Mortgage Property Charge Loss Mitigation*, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (Jan 3, 2011) <https://portal.hud.gov/hudportal/documents/huddoc?id=11-01ml.pdf>

observed that “It appears that Financial Freedom has made a business decision not to offer repayment plans to any borrowers in foreclosure.”⁴

The Senate and the American people will need to rely on the Treasury Secretary for honesty as major policies are adopted. However, given the chance to explain his foreclosures, he’s hidden behind a fabricated excuse that is clearly rebutted by the public record. We urge the Senate to reject his confirmation.

For questions please contact Bartlett Naylor at bnaylor@citizen.org, or 202.580.5626

Sincerely,

Public Citizen

⁴ *Senior Homeowners Are Struggling with HUD’s Limits on HECM Loss Mitigation*, NATIONAL CONSUMER LAW CENTER (November 2016) http://www.nclc.org/images/pdf/foreclosure_mortgage/reverse-mortgages/ib-hecm-examples-loss-mitigation.pdf