

## 1 THE NEED FOR NATIONAL MORTGAGE SERVICING STANDARDS

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3 THURSDAY, MAY 12, 2011

4 United States Senate,  
5 Subcommittee on Housing, Transportation, and  
6 Community Development,  
7 Committee on Banking, Housing, and Urban Affairs,  
8 Washington, D.C.

9 The Subcommittee met, pursuant to notice, at 2:12 p.m.,  
10 in room SD-538, Dirksen Senate Office Building, Senator  
11 Robert Menendez (Chairman of the Subcommittee) presiding.

12 Present: Senators Menendez and Merkley.

## 13 OPENING STATEMENT OF SENATOR MENENDEZ

14 Senator Menendez. Good afternoon. This hearing will  
15 come to order, the hearing of the Banking Subcommittee on  
16 Housing, Transportation, and Community Development. This is  
17 the first Subcommittee hearing that I have called as  
18 Chairman in the 112th Congress, and for this hearing I have  
19 chosen to focus on the need for national mortgage servicing  
20 standards, which speaks to just how important I believe this  
21 subject is not only for homeowners and mortgage investors,  
22 but for the entire lending industry.

23 It is of particular concern to the countless New Jersey  
24 homeowners who have contacted my office, almost all with  
25 terrible stories about their experience going through

1                   STATEMENT OF RICHARD A. HARPOOTLIAN, ATTORNEY,  
2                   RICHARD A. HARPOOTLIAN P.A.

3           Mr. Harpootlian. Mr. Chairman, thank you for allowing  
4 me to be here today. I want to tell you, it is my honor to  
5 represent over 6,000 servicemen and women who were  
6 wrongfully overcharged or foreclosed on by Chase Bank. We  
7 resolved this case by settlement last week and they are  
8 going to receive payment of about \$56. And Chase has  
9 stepped up to the plate and is going to do a number of  
10 things that are going to benefit these 6,000 servicemen and  
11 women and other servicemen and women.

12           But what I think is important for this body to know is  
13 that prior to being caught, if you will, there was no effort  
14 on the part of Chase--and we can find seeing other financial  
15 institutions--to monitor the accounts of these servicemen  
16 and women.

17           Now, the Servicemen's Civil Relief Act goes back to the  
18 1940s. The concept is fairly simple. If you are deployed  
19 and fighting in a foxhole in Afghanistan, you should not  
20 have to worry about the bank taking your house because you  
21 cannot keep up with the financial affairs at home.  
22 Likewise, the Act requires that the mortgage interest rate  
23 be no more than six percent during that period of time to  
24 alleviate some of the financial burden on these men and  
25 women in uniform.

1           What we find is, again, a dysfunctional system. There  
2 is no way, no method by which the Pentagon or any of the  
3 Department of Defense informs banks when someone is  
4 deployed. There is no method other than going to a website  
5 for the bank to know before they foreclose that someone is  
6 deployed. Everything is put on that service member to send  
7 their orders to the bank, and we found in most instances  
8 those got lost somewhere.

9           The most important thing to understand is this process  
10 affects the quality of defense, the quality of effort we get  
11 from our men and women in the field. I talked to hundreds  
12 of servicemen and women, some of whom had SCRA protection,  
13 many of whom did not, that are worried about the financial  
14 welfare of their family while they ought to be worrying  
15 about bullets coming in and shells coming in. And this is a  
16 national disgrace. It is a national disgrace because these  
17 men and women are putting their lives on the line for us.  
18 Even the ones that are not deployed are performing a  
19 valuable defense effort and function.

20           So in my prepared remarks, I have outlined a couple of  
21 things I think that are important that ought to be enacted.  
22 A much more streamlined way of financial institutions  
23 knowing who is deployed, who is not deployed. But more  
24 importantly, the military itself ought to have resources  
25 available. JAG officers do a great job, but they are not

1   tasked, if you will, with ensuring that the men and women in  
2   uniform understand what their rights are under the SCRA and  
3   they are protected against harassment and, I mean, the main  
4   plaintiff in this case got 100--his wife and he got 140  
5   collection phone calls from the bank while he was deployed  
6   while she was eight months pregnant and while he is flying  
7   an airplane in combat. That is wrong and we need to stop  
8   that.

9           The last thing I would say, which may have  
10   applicability to what the other speakers said here, is  
11   things have gotten so bad in South Carolina that our Chief  
12   Justice has enjoined mortgage foreclosures--all mortgage  
13   foreclosures--and I put in my remarks, unless and until a  
14   financial institution certifies certain things, and all of  
15   those things are--I will briefly summarize them. One, that  
16   the mortgagor has been served with notice of the mortgagor's  
17   right to foreclosure intervention by means of loan  
18   modification or other means of loss mitigation; that the  
19   mortgagor has been given an opportunity to do that; that  
20   they have had a full and fair opportunity to submit  
21   information or data to the mortgagee; that after completion  
22   of foreclosure intervention process, the mortgagor does not  
23   qualify and why; and that the notice of the denial of loan  
24   modification or other means of loss mitigation has been  
25   served on the mortgagor by mailing and there has been a 30-

1 day period after that mailing before they can begin  
2 foreclosure.

3 This is not a model, but it certainly shows that, at  
4 least on a State level, our Chief Justice has said this  
5 thing is a mess and too many people are not being given the  
6 opportunity to try to modify their loans.

7 Most of the people I talk to in uniform could work some  
8 sort of modification out if the financial institutions  
9 allowed them to do so. What we have heard here today about  
10 beginning this process, being told, well, you should miss--  
11 you know, we cannot help you unless you miss two or three  
12 payments, I heard that over and over again.

13 Thank you for the opportunity to be here today.

14 [The prepared statement of Mr. Harpootlian follows:]

1 loan modifications with everybody. I would like to have a  
2 principal write-down, but again, you do not apply for it.  
3 Again, it is just one of those touchy issues that--I think  
4 Mr. Stevens probably has looked into this, I think, quite  
5 intensively, but that is--

6 Senator Menendez. I think there are a lot of moral  
7 hazards that crossed when we gave out mortgages to  
8 individuals who should never have been enticed into a  
9 mortgage for which they did not have the wherewithal to live  
10 up to, and there was a lot of moral hazard crossed there.  
11 There was a lot of moral hazard when, because of systemic  
12 risk to this entire country's economy, we had to go in and  
13 resolve for every American taxpayer the consequences of  
14 institutions that would have collapsed but would have  
15 created a consequence to every American.

16 So I agree with you. There is a lot of moral hazard  
17 here. At some point, though, my concern at this point in  
18 time, having seen many of those moral hazards already  
19 crossed, is the question of how do we mitigate the  
20 consequences to the Federal taxpayer at this point for that  
21 which has already been determined. And we have, by virtue  
22 of Fannie and Freddie, the largest single portfolio of that,  
23 and that means that the Federal taxpayer has the largest  
24 single risk. And so in my mind is how do we mitigate that  
25 so that we walk out as best as we can under the

1 circumstances.

2           Mr. Harpootlian, I want to close on a note. I  
3 appreciate the service that you rendered to the men and  
4 women in uniform. You know, it is pretty incredible that we  
5 find ourselves at a time in which we have two wars raging  
6 abroad, largely unpaid for but nevertheless raging abroad,  
7 that the men and women in uniform would have to worry about  
8 their homes being lost where their wives or husbands and  
9 children are. It is not how a grateful nation says thank  
10 you, and it is not how institutions who are benefitting from  
11 the investments of those individuals in their companies  
12 should act.

13           So I read your greater testimony with interest. I know  
14 you recommended greater legal support for service members to  
15 understand and enforce their rights and more cooperation  
16 with the Department of Defense and financial institutions,  
17 and I wholeheartedly agree. With reference to your  
18 recommendation that we should incentivize mortgage  
19 modifications and discourage foreclosures when it comes to  
20 service people, that is what some of our current mortgage  
21 modification programs are trying to do more broadly, not as  
22 successful as we would like. Do you have any ideas of how  
23 that would be tailored to service people?

24           Mr. Harpootlian. Well, I think that, again, our men  
25 and women in uniform are sacrificing--I mean, I have heard

1 story after story of folks that were in the Reserves that  
2 were making a pretty good salary ending up in Afghanistan or  
3 Iraq. Salaries come down dramatically. They cannot make  
4 their house payments anymore. It just seems to me that at  
5 the front end, before--when they are deployed, somebody in  
6 the military ought to sit down and do some sort of financial  
7 analysis of what their situation is.

8         There is a Lieutenant Colonel from California who was a  
9 Reservist in military intelligence. Her husband was making  
10 about a half-a-million dollars a year and she was making  
11 about \$125,000 a year. She got deployed. His business, RV  
12 business, shut down. She went from making \$125,000 to about  
13 \$30,000 or \$40,000. And all that--nobody there to help  
14 them, nobody to talk to the financial institutions, and they  
15 foreclosed on her and she is one of our class members.

16         But that is an extreme case. I think the Department of  
17 Defense ought to work something out with the financial  
18 institutions so when folks, both deployed and not deployed,  
19 have issues, that there is somebody advocating for them,  
20 because they are distracted. They are distracted in some  
21 instances by incoming. In other instances, if they are  
22 maintaining a jet at Shaw Air Force Base in South Carolina,  
23 I want them focused on maintaining that jet, not worrying  
24 about their financial issues. And I think, again, the pay  
25 is not good, the life is pretty hard, and we ought to do

1 something in addition to all this that you are talking about  
2 in terms of servicing standards, we ought to do something in  
3 addition for our men and women in uniform.

4 Senator Menendez. All right. Thank you very much.

5 Well, I do know this much, and you all have been very  
6 helpful in beginning, and I underline "beginning," to help  
7 us understand some of the challenges here. The present  
8 system as it is is not acceptable and not working, so there  
9 has to be change. And those who are involved, I hope, will  
10 come forth in the spirit of embracing the change and helping  
11 us structure it in a way that both meets the desire to have  
12 people obviously live up to their obligations, but also be  
13 able to stay in their homes.

14 In the absence of having those who are in the industry  
15 come forth and embrace the necessary changes, then I think  
16 that there will be changes forthcoming that they might not  
17 very well appreciate when they have an opportunity to  
18 engage. So I hope this hearing starts the highlighting of  
19 what some of these critical issues are and we have to think  
20 through as to how we best resolve them and have the pendulum  
21 strike in the right balance. But just the belief that we  
22 can tough it out is the wrong belief.

23 With that, I want to thank all the witnesses for  
24 sharing their expertise today. I hope, as I said, that we  
25 can come together to try to improve this process pretty

1 dramatically.

2           The record will remain open for seven days to give  
3 everybody an opportunity to answer questions in writing. I  
4 still have some, but I did not want to keep you here longer.  
5 And we would appreciate your answers as expeditiously as  
6 possible.

7           So with the thanks of the committee and with no other  
8 Senator present, this hearing is adjourned.

9           [Whereupon, at 3:33 p.m., the subcommittee was  
10 adjourned.]