



July 26, 2017

Dear Senator,

On behalf of Americans for Financial Reform, we are writing in opposition to the nomination of Joseph Otting for Comptroller of the Currency. As the head of the Office of the Comptroller of the Currency (OCC), Mr. Otting would be the principal regulator for the safety-and-soundness of national banks, which together hold more than two-thirds of banking assets in the United States. We see nothing in his record which suggests that he will carry out those important responsibilities with an informed and serious commitment to serving the public interest, rather than the narrow interests of the industry from which he comes--even when serving industry interests create a public danger.

Mr. Otting previously served as the CEO of OneWest from 2010 to 2015. During that time, the bank had a well-documented record of consumer complaints, a questionable response to regulatory inquiries, and executed tens of thousands of foreclosures. As Mr. Otting has no prior government experience, his record at OneWest is a central basis on which Senators can judge his nomination.

One of the most concerning pieces of Mr. Otting's legacy at OneWest are the recently-settled charges by the Justice Department of violations of FIRREA due to misconduct in its reverse mortgage business, Financial Freedom.<sup>1</sup> Reverse mortgage products, marketed to the elderly as a way for them to tap home equity, are supposed to include protections against eviction so long as borrowers continue to live in their primary residences. But Financial Freedom apparently engaged in aggressively predatory practices that led to more than 16,000 foreclosures, a far greater number than would be expected based on the company's market share. Elderly homeowners who were recently widowed were most likely to be victimized.

According to the California Reinvestment Coalition, redlining was occurring at OneWest since at least 2011, when Mr. Otting led the bank. OneWest made just two mortgages to black borrowers in 2014 and 2015 in Southern California counties where it had 74 branches.<sup>2</sup> In addition, Mr. Otting also served as the bank's CEO during years when it bent the rules to speed up foreclosures, according to lawyers for the California Department of Justice.<sup>3</sup> The company also

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<sup>1</sup> Department of Justice, *Financial Freedom Settles Alleged Liability for Servicing of Federally Insured Reverse Mortgage Loans for \$89 Million*, May 16, 2017, available at <https://www.justice.gov/opa/pr/financial-freedom-settles-alleged-liability-servicing-federally-insured-reverse-mortgage>

<sup>2</sup> *CIT Group Accused of Redlining and Violating Fair Housing Act*, California Reinvestment Coalition, Nov. 18, 2016, available at <http://www.calreinvest.org/news/cit-group-accused-of-redlining-and-violating-fair-housing-act>.

<sup>3</sup> David Dayen, *Treasury Nominee Steve Mnuchin's Bank Accused of "Widespread Misconduct" in Leaked Memo*, *The Intercept*, Jan. 3, 2017, available at <https://theintercept.com/2017/01/03/treasury-nominee-steve-mnuchins-bank-accused-of-widespread-misconduct-in-leaked-memo/>

sought to avoid compliance with state law, arguing that state consumer protection laws did not apply to them.<sup>4</sup>

These questions regarding Mr. Otting's record are especially important given the critical decisions before the next Comptroller, including:

- how to implement and enforce the crucial public protections in the Dodd-Frank Act;
- whether to resist bank pressure to unravel the OCC's guidance to banks regarding abusive payday loans;
- whether to oppose efforts by national banks to use preemption to ignore state consumer protection laws;
- whether to abandon the OCC's plans to unlawfully charter nondepository institutions without Congressional authorization;
- whether to disavow the Acting Comptroller's radical proposals to obstruct other regulators authority to protect the financial system; and
- whether to reject the Acting Comptroller's outlandish attempt to overturn the Consumer Financial Protection Bureau's arbitration rule based on unsupported assertions about the effect of holding banks accountable on their safety and soundness.

We thank you for your attention, and urge you to oppose Mr. Otting's nomination.

Sincerely,

Americans for Financial Reform

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<sup>4</sup> Boyle v. Vesuvio Holdings, B256055, 2016 WL 595675, at 7 (Cal. App. 2 Dist. Oct. 14, 2016), available at <http://www.courts.ca.gov/opinions/nonpub/B256055.PDF>; Darwin Bondgraham, *Saving the Homeowner Bill of Rights*, East Bay Express, Nov. 26, 2014, available at <https://www.eastbayexpress.com/oakland/saving-the-homeowner-bill-of-rights/Content?oid=4132390>