

March 26, 2013

Joseph A. Smith  
Office of Mortgage Settlement Oversight  
301 Fayetteville St., Suite 1801  
Raleigh, NC 27601

Members of the Monitoring Committee

*Via electronic mail*

Dear Mr. Smith and Members of the Monitoring Committee:

We write to follow up on your interim report regarding Ally Financial's compliance with the national mortgage settlement, and to again stress the need for greater transparency to ensure the effectiveness of this settlement agreement for communities of color and other hardest-hit communities.

Homeowners and advocates around the nation have grown frustrated by the banks' failure to provide information about consumer relief under the settlement, and by the slow pace of change on the ground for hardest-hit communities. You heard these frustrations voiced at the recent forum hosted by the National Council of La Raza, National Urban League, and the National Coalition for Asian Pacific American Community Development. Just last week, the Alliance of Californians for Community Empowerment, Center for Popular Democracy and the Home Defenders League called upon Wells Fargo to "be honest with Californians by reporting data on its principal reduction, short sales, and foreclosures by race, income, and zip code."

**These statements reflect a broad consensus: we need greater transparency and accountability to ensure that banks comply with their fair lending obligations, and remedy the damage of foreclosures in communities of color and other low-to-moderate income communities.**

Federal and state authorities promised that this settlement would end mortgage servicing abuses and help prevent unnecessary foreclosures. In exchange for waivers of liability on substantial legal claims, the settling banks promised to invest billions of dollars toward alleviating the nation's foreclosure crisis. As part of the settlement, the banks specifically agreed not to "discriminate against any protected class of borrowers." [Consent Judgment Ex. D, at 1.]

This fair lending protection is central to resolving the nation's foreclosure crisis. Discriminatory and predatory lending practices inflated the subprime lending bubble and caused the nation's financial collapse and foreclosure crisis. Today, banks are reportedly failing to maintain REO properties in communities of color adequately, and there is evidence that vacant homes lost to foreclosure are driving down property values and driving up crime in hardest-hit neighborhoods.

The national mortgage settlement must help break this cycle of discriminatory lending. Unfortunately, your reports fail to provide any insight into whether the settlement is benefitting communities of color. Without transparency, we cannot maximize the benefit of this settlement for struggling homeowners, or

learn how to improve upon this settlement for future agreements. This is a missed opportunity that must be addressed.

**First: the Monitor should use its access to loan-level data to improve public knowledge of the banks' consumer relief activities.**

As your Ally Financial report illustrates, the Monitor must use the banks' mortgage servicing data (including "access to databases reflecting total populations and loan level information on loans in these populations") to confirm the banks' relief activities. [Ally Report at 7-8.] For example, your auditors are carefully reviewing whether banks have set property values appropriately. [Ally Report at 24.] This review cannot be conducted without information on where these properties are located – exactly the kind of loan-level geographic data that the public has been seeking for months to no avail.

The Monitor should share this data at a census tract or zip code level, so that the public may finally understand which neighborhoods are being provided with foreclosure relief under the settlement. Without this data, it is impossible to measure the impact of the national mortgage settlement in any meaningful way, or to determine the settlement's impact on our communities and our economy. And without knowing where relief is going under this settlement, it is impossible to make recommendations for improving the effectiveness of relief under future agreements.

Publishing this data at the neighborhood level would not violate any homeowner's privacy, but would provide the public with critical information about the state of our nation's foreclosure crisis.

**Second: the Monitor should aggressively enforce the settlement's servicing reforms and fair lending requirements.**

Your interim report on Ally Financial too blithely dispenses with the settlement's prohibition against discriminatory lending. These fair lending requirements are central to addressing the roots of the foreclosure crisis and ensuring the efficacy of this agreement. They are core responsibilities under the settlement, not merely "indirect requirements" as you describe them in your report. [Ally Report at 28-29.]

Ally's relief activity was largely structured by the particular set of outreach requirements imposed on that bank. But their counsel's statement that Ally "did not consider any borrower's geographic location or status as a protected class member" remains insufficient proof of fair lending compliance. The Monitor must also ask and measure whether banks are taking adequate action to reach out to borrowers.

For example, 78% of housing counselors surveyed by National Housing Resource Center, and over 60% of housing counselors surveyed by the California Reinvestment Coalition, report that their Limited English Proficient homeowners are "never" or only "sometimes" able to speak to their servicer in their native language, or through a translator provided by the servicer. The Monitor must ensure that banks serve all customers fairly, including low and moderate income borrowers and homeowners who do not speak English as a first language.

In addition, the Monitor must aggressively enforce the settlement's servicing reforms to ensure that *all* families have a fair opportunity to save their homes. These servicing reforms are needed to spur recovery in hardest-hit communities. Unfortunately, surveys of housing counselors and attorneys suggest widespread violation of the settlement's servicing requirements.

For example, the settlement requires banks to provide a Single Point of Contact to guide consumers through the loan modification process. This reform is critical to cutting back on delays and improving outcomes for borrowers and lenders. But it does not appear to be working: 81% of housing counselors surveyed by the National Housing Resource Center, and 70% of housing counselors surveyed by the California Reinvestment Coalition, reported that their contact at the bank was only "sometimes," "rarely," or "never" accessible, consistent or knowledgeable about relevant program rules.

These surveys also found that the banks are failing to meet their obligations to end dual tracking, respond to borrower applications within required timelines, or accommodate borrowers with disabilities or special needs. Banks are continuing to lose documents and require duplicative submissions, causing unnecessary delays that hurt borrowers, investors and communities.

Past lending practices and servicing violations have disproportionately harmed communities of color. The settlement servicing standards should be enforced with regard to all borrowers, and monitoring must also ensure that settlement relief does not perpetuate past discrimination by continuing to disfavor members of protected classes, or by neglecting these hardest-hit communities.

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The Monitor's most recent reports fail to provide sufficient information about the geography or demographics of borrowers receiving relief under the settlement. Such data is needed to ensure that these mortgage servicers comply with the settlement's prohibition of discriminatory conduct, as well as the banks' fair lending obligations under the Fair Housing Act and the Equal Credit Opportunity Act. It is also needed to ensure that this agreement has the greatest possible impact on the nation's ongoing foreclosure crisis – and that relief is fairly provided to communities of color and other hardest-hit communities who were targeted for subprime lending and are now reeling from particularly high foreclosure rates.

For these reasons, we again urge you to:

- Use the Monitor's access to loan-level servicer data to show which neighborhoods are receiving homeowner relief under the settlement;
- Aggressively, immediately, and regularly monitor fair lending concerns, and make that process transparent to the public;
- Fully audit fair lending compliance before relieving any of the servicers from their obligations under the settlement; and
- Enforce the settlement's servicing standards to ensure that *all* consumers have a fair shot at saving their homes.

It is past time to begin examining these issues in your assessments of the national mortgage settlement, and to use the data at your disposal to help make this and future agreements more effective for promoting fair and responsible lending.

Sincerely,

Able Works

Action NC

Action United (PA)

Advocates for Basic Legal Equality, Inc. (ABLE)

Advocates for Neighbors, Inc.

Affordable Housing Services

AFL-CIO

Alliance for a Just Society

American Civil Liberties Union

Americans for Financial Reform

Bedford-Stuyvesant Community Legal Services

Bet Tzedek Legal Services

Brennan Center for Justice at NYU School of Law

California Reinvestment Coalition

California Rural Legal Assistance, Inc.

Campaign for a Fair Settlement

Causa Justa :: Just Cause

Center for NYC Neighborhoods

Civic Center Barrio Housing Corp.

Columbia Legal Services

Community Housing Council of Fresno

Community Housing Development Corporation

Community Legal Services (Philadelphia, PA)  
Connecticut Fair Housing Center  
Consumer Action  
Consumer Credit Counseling Service of Orange County  
Consumer Credit Counseling Service of the North Coast  
Consumers Union  
Corporate Action Network  
Courage Campaign  
Cypress Hills Local Development Corp.  
Delaware Bar Foundation  
Empire Justice Center  
EPACT Education Fund  
ESOP: Empowering and Strengthening Ohio's People  
Fair Housing Council of the San Fernando Valley  
Fair Housing Napa Valley  
Fair Housing of Marin  
Greater Boston Legal Services, Inc.  
Greenlining Institute  
Gulfcoast Legal Services  
Home Defenders League  
HomeFree-USA  
Housing and Economic Rights Advocates (HERA)  
ISAIAH  
JASA/Legal Services for the Elderly in Queens  
Korean Churches for Community Development

Leadership Center for the Common Good  
Legal Advice and Referral Center (LARC) (Concord, NH)  
Legal Aid Foundation of Los Angeles  
Legal Aid of East Tennessee  
Legal Aid of Nebraska  
Legal Aid Society of Metropolitan Family Services  
Legal Services NYC  
Legal Services of Central New York, Inc.  
Maryland Consumer Rights Coalition  
Maryland Legal Aid Bureau  
Memphis Area Legal Services  
MFY Legal Services  
Minnesotans for a Fair Economy  
Mission Economic Development Agency  
Mississippi Center for Legal Services  
Missourians Organizing for Reform and Empowerment  
Mountain State Justice, Inc.  
NAACP Legal Defense and Educational Fund, Inc. (LDF)  
National Association of Consumer Advocates  
National Coalition for Asian Pacific American  
Community Development  
National Consumer Law Center (on behalf of its low-  
income clients)  
National Council of La Raza  
National Fair Housing Alliance  
National Legal Aid & Defender Association (NLADA)

National People's Action

NEDAP

Neighborhood Housing Services of the East Bay

Neighborhood Legal Services, Inc.

New Bottom Line

New Hampshire Legal Assistance (Concord, NH)

New Jersey Communities United

NJ Communities United

Pennsylvania Legal Aid Network, Inc.

Philadelphia Unemployment Project

PLAN Action Fund

Planning for Sustainable Communities

Professor F. Willis Caruso, Director of the Pro Bono  
Program of The John Marshall Law School

Progressive Leadership Alliance of Nevada

Public Counsel

Public Law Center (Santa Ana, CA)

Queens Legal Services

Right to the City Alliance

Rural Community Assistance Corporation

San Diego City-County Reinvestment Task Force

Staten Island Legal Services

Tenants Together

Texas Legal Services Center

Thai Community Development Center

The Asian Pacific Policy & Planning Council (A3PCON)

The Fair Housing Consultants of Lakewood

The Fair Housing Council

The Fair Housing Council of San Diego

The Greater Sacramento Urban League

The Housing & Economic Development Corporation  
(HEDC)

The Leadership Conference on Civil and Human Rights

The Legal Aid Society for the District of Columbia

The Mississippi Center for Justice

The North Florida Center For Equal Justice, Inc.

The Northwest Justice Project

The Progressive Leadership Alliance of Nevada

The Public Interest Law Project/California Affordable  
Housing Law Project

The Unity Council

Vermont Slauson Economic Development Corporation  
(VSEDC)

Western New York Law Center