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## CANTWELL CALLS ON FEDERAL AGENCIES TO RELEASE RECORDS ON BANKS' FORECLOSURE PRACTICES

### WITH NEARLY 30,000 WASHINGTON STATE PROPERTIES IN FORECLOSURE, CANTWELL CALLS ON FEDERAL AGENCIES TO IMPROVE TRANSPARENCY IN EFFORT TO ROOT OUT 'ROBO-SIGNING'

WASHINGTON, D.C. – Today, U.S. Senator Maria Cantwell (D-WA) joined Senator Robert Menendez (D-NJ) and eight other senators in urging for increased transparency among mortgage servicers' practices to prevent illegal foreclosures. In a letter sent today to the Office of the Comptroller of the Currency, the Federal Reserve, and the Federal Deposit Insurance Corporation, the senators urged the agencies to release information regarding each mortgage servicer's performance to the public to prevent illegal foreclosure practices. The letter arrives in the wake of recent reports that illegal foreclosure "robo-signing" by banks is still rampant.

Rooting out illegal foreclosure practices would help ensure that Washington state homeowners are not being unfairly forced to leave their homes. Through the first six months of 2011, Washington state had the 15<sup>th</sup> highest foreclosure rate in the country. RealtyTrac reports that the state had 4,450 new foreclosure filings in June and that overall, there were 29,398 foreclosure properties.

**"We believe it is essential that the items listed above be made available to the general public or the public will lack confidence in both the foreclosure review process and results,"** said Cantwell and other Senators in the letter sent today. **"This is particularly the case because the foreclosure reviews are being performed by consultants who are chosen by the mortgage servicers themselves, and those consultants often have conflicts of interest in that they are not prohibited from getting future business from those same mortgage servicers."**

Enforcement actions were initiated by federal regulators because of the "robo-signing" scandal from last year that revealed many servicers were wrongfully foreclosing on homeowners and not following existing foreclosure procedures and laws. Robo-signing is when banks falsely swear that they have reviewed property documents that are necessary to foreclose on a homeowner's house. Recently both the Associated Press and Reuters reported that despite regulators' assurances to the contrary, illegal robo-signing allegedly remains rampant in both foreclosure and non-foreclosure cases.

The request for disclosures is also based upon concern over the fact the consultants performing foreclosure reviews have conflicts of interest since they are chosen by the mortgage servicers they are hired to investigate and have done past or future business with those same mortgage servicers. The Senators are requesting public release of Engagement Letters, Action Plans, Foreclosure Reviews, and other plans, policies, or processes submitted by mortgage servicers or third-party servicers to ensure that abuses in foreclosure practices are not being ignored by the review process.

The letter sent today was also signed by Senators Richard Blumenthal (D-CT), Al Franken (D-MN), Daniel K. Akaka (D-HI), Mark Begich (D-AK), Bernie Sanders (I-VT), Jon Tester (D-MT), John D. Rockefeller IV (D-WV), and Sherrod Brown (D-OH). All three regulators to whom the letter is addressed will appear before the Senate Banking Committee for a hearing at 10 a.m. tomorrow on the one-year anniversary of the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Mr. John Walsh

The Honorable Ben S. Bernanke

Acting Comptroller of the Currency

Chairman

Office of the Comptroller of the Currency  
Independence Square

Board of Governors of the Federal Reserve System

250 E Street SW

20th Street and Constitution Avenue NW

Washington, DC 20219-0001

Washington, D.C. 20551

Mr. Martin Gruenberg

Acting Chairman

Federal Deposit Insurance Corporation

Washington, D.C. 20429

*Dear Acting Comptroller Walsh, Chairman Bernanke, and Acting Chairman Gruenberg:*

*We write today to urge you to make public critical information related to enforcement actions taken against mortgage servicers regarding their improper foreclosure practices. This is especially important given this week's allegations that mortgage servicers continue to engage in widespread "robo-signing" despite your assurances that these illegal actions would not continue. Specifically, we request that you make public the following items related to the April 12, 2011 Consent Orders issued by your offices:*

- *All “Engagement Letters” governing the mortgage servicers’ contracts with the consultants hired by the servicer to review that servicer’s foreclosure actions;*
- *All “Action Plans” that mortgage servicers and third-party service providers are required to provide to regulators and that will outline the financial resources, organizational changes, measurement systems, governance controls, and timelines that will be adopted to correct improper foreclosure practices;*
- *All “Foreclosure Reviews” completed by consultants for each bank, which will outline the results of their investigations into whether ownership of promissory notes or mortgages were properly documented, whether foreclosures were undertaken in accordance with state and federal law, whether calculations under the Home Affordable Modification Program and proprietary loan modification programs were done correctly, whether borrowers were charged excessive or improper fees and penalties related to delinquency, and whether any errors identified caused financial injury to borrowers, among other items;*
- *Any other plans, policies, or processes submitted to your offices by mortgage servicers or third-party service providers pursuant to the April 12, 2011 Consent Orders whose disclosure is important to instill public confidence in the process and results of the foreclosure reviews.*

*We believe it is essential that the items listed above be made available to the general public or the public will lack confidence in both the foreclosure review process and results. This is particularly the case because the foreclosure reviews are being performed by consultants who are chosen by the mortgage servicers themselves, and those consultants often have conflicts of interest in that they are not prohibited from getting future business from those same mortgage servicers. The information we are requesting is therefore necessary for the public to determine the independence of the consultants being engaged to perform the foreclosure reviews, the accuracy of the foreclosure reviews, the adequacy of the “Action Plans” in responding to your findings, whether servicer performance meets the goals they have established, and whether those homeowners who experienced harm (such as being improperly foreclosed upon or denied mortgage modifications when they should have been granted under existing criteria) are given appropriate remedies. Based on a legal analysis by the non-partisan Congressional Research Service, we also believe that it is well within your regulatory discretion under existing laws to disclose this information in the public interest. This is consistent with your previous determination in April that release of the Interagency Review of Foreclosure Policies and Practices, which was essentially an examination report of foreclosure practices, was also in the public interest. We understand concerns about not revealing mortgage servicers’ proprietary information, but also believe that some disclosure can be done on a bank by bank basis without compromising proprietary information.*

*Furthermore, we believe that the full disclosure of these documents to the public is necessary given the recent reports by both the Associated Press and Reuters of the continued widespread practice of “robo-signing” among mortgage servicers. Both have alleged that servicers continue to file thousands of property documents that appear to be fabricated. Reuters also quoted a top representative from the mortgage servicing industry saying that the Consent Orders have “not put a stop to questionable practices.” David Stevens, president of the Mortgage Bankers Association, tellingly said that some loan servicers “continue to cut corners” and “the real question is whether the servicer complied with all legal requirements.”*

*We respectfully request that all documents be made public and sent to Congress within one week of your office receiving them from mortgage servicers or third-party service providers. If you have any questions about this request, please contact Amanda Fischer at (202) 225-2201 or Michael Passante at (202) 224-4744. We appreciate your swift attention to this important matter.*

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