



**FIGHTING ON THE HOME FRONT:
THE GROWING PROBLEM OF ILLEGAL FORECLOSURES
AGAINST U.S. SERVICEMEMBERS**

**Democratic Staff Report
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EXECUTIVE SUMMARY

In the midst of World War II, Congress enacted the Soldiers' and Sailors' Civil Relief Act "to protect those who have been obliged to drop their own affairs to take up the burdens of the nation." In 2003, Congress passed the Servicemembers Civil Relief Act (SCRA) to update the law and provide additional protections for servicemembers. In 2010, Congress enacted amendments to the SCRA specifically relating to mortgages and foreclosures.

The SCRA prohibits foreclosures against servicemembers without court orders and restricts mortgage banks from charging interest fees above 6% during active duty service.

When isolated reports of illegal foreclosures and inflated fees against servicemembers first arose, mortgage servicing companies downplayed the extent of these problems. As thousands of servicemembers began coming forward, however, the widespread scope of these problems became more evident.

Multiple mortgage servicing companies have now conceded that they violated the SCRA by illegally foreclosing on servicemembers and by charging fees in excess of the maximum amounts allowed under the SCRA. Three banks have been forced to pay multi-million dollar settlements relating to these abuses. The largest to date was JPMorgan, which initially announced that it would pay \$2 million, but later agreed to pay \$56 million to settle claims that it overcharged military personnel and illegally seized the homes of active-duty military personnel protected by the SCRA.

Similarly, in announcing a \$20 million settlement against Bank of America, Justice Department officials condemned the bank's actions, stating that it "failed to protect and respect the rights of our servicemembers, failed to comply with clearly mandated procedures, and foreclosed against homeowners who are valiantly serving our nation."

The scale of these problems continued to expand, however, as federal regulators dug deeper. On April 13, four federal agencies that regulate mortgage servicing companies issued a report finding "critical weaknesses in servicers' foreclosure governance processes, foreclosure document preparation processes, and oversight and monitoring of third-party vendors, including foreclosure attorneys." The report raised "escalated" concerns about the systemic deficiencies of 14 mortgage banks, including multiple SCRA violations.

This interagency review was cursory, however, and was based on only a sampling of a "relatively small number of files." As a result, the agencies initiated enforcement action against all 14 banks, directing a more comprehensive review to identify additional borrowers and servicemembers "that have been financially harmed."

In addition, the Dodd-Frank Wall Street Reform and Consumer Protection Act established the Consumer Financial Protection Bureau (CFPB) to protect consumers from unfair, deceptive, and abusive financial practices. Under the leadership of Elizabeth Warren, the CFPB organized an Enforcement Division and an Office of Servicemember Affairs led by Holly Petraeus, the wife of Gen. David H. Petraeus, the former top U.S. commander in Afghanistan.

Mrs. Petraeus focused quickly on the issue of SCRA violations, making public statements to increase awareness and issuing warning letters to the nation's largest 25 mortgage banks. In addition, on July 6, 2011, she announced that the CFPB and the Judge Advocates General of the United States Army, Marine Corps, Navy, Air Force, and Coast Guard agreed to a number of steps "to provide stronger protections for servicemembers and their families." In particular, they established "a formal working group with the goal of achieving a coordinated response to unlawful conduct targeted at servicemembers and their families."

Although it is now clear that illegal actions against servicemembers are much more widespread than originally believed, their full scope is not yet known. Violations of the SCRA have taken a significant toll on servicemembers who have had to wage battles on two fronts—risking their lives in service of their country abroad while fighting illegal foreclosures and inflated fees at home.

I. OVERVIEW OF SERVICEMEMBERS CIVIL RELIEF ACT (SCRA)

In 1940, Congress enacted the Soldiers' and Sailors' Civil Relief Act "to protect those who have been obliged to drop their own affairs to take up the burdens of the nation." In 2003, Congress passed the Servicemembers Civil Relief Act (SCRA) to update the law and provide additional protections for servicemembers.¹ In 2010, Congress enacted additional provisions creating a private right of action and extending certain protections regarding mortgages and foreclosures.²

When the SCRA was passed in 2003 with broad bipartisan support, a report by the House Committee on Veterans' Affairs stated:

Congress has long recognized that the men and women of our military services should have civil legal protections so they can "devote their entire energy to the defense needs of the Nation." With hundreds of thousands of servicemembers fighting in the war on terrorism and the war in Iraq, many of them mobilized from the reserve components, the Committee believes the Soldiers' and Sailors' Civil Relief Act (SSCRA) should be restated and strengthened to ensure that its protections meet their needs in the 21st century.³

The purpose of the SCRA is to "provide for, strengthen, and expedite the national defense" through the "temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of servicemembers during their military service." The Act addresses a host of proceedings, including those affecting motor vehicle leases, life insurance, and mortgages.⁴

The SCRA protects active duty servicemembers against foreclosures during their period of military service. It states:

A sale, foreclosure, or seizure of property for a breach of an obligation ... shall not be valid if made during, or within 9 months after, the period of the servicemember's military service except ... upon a court order granted before such sale, foreclosure, or seizure with a return made and approved by the court.⁵

The SCRA also provides courts with broad authority to "stay the proceedings for a period of time as justice and equity require" and to "adjust the obligation to preserve the interests of all

¹ Pub. L. No. 108-189 (2003).

² See Pub. L. No. 111-346 (2010); Pub. L. No. 111-275 (2010).

³ House Committee on Veterans' Affairs, *Servicemembers Civil Relief Act*, 108th Cong. (2003) (H. Rept. 108-81).

⁴ See Pub. L. No. 108-189 (2003).

⁵ 50 U.S.C. app. § 533(c).

parties.”⁶ Finally, the SCRA provides that mortgage interest rates for servicemembers may not exceed 6% for pre-service debt during the period of military service and for one year after termination of service.⁷

II. WIDESPREAD AND INCREASING VIOLATIONS OF THE SCRA

Multiple mortgage servicing companies have now conceded that they violated the SCRA by illegally foreclosing on servicemembers and by charging fees in excess of the maximum amounts allowed under the SCRA. Although initially downplaying the extent of the problem, several banks have been forced to pay multi-million dollar settlements relating to these violations.

A. JPMorgan Chase

In January 2011, JPMorgan admitted publicly that it overcharged thousands of military families in violation of the SCRA. One of these servicemembers was Marine Captain Jonathon Rowles, a fighter pilot who sued the bank for overcharging his family and illegally attempting to seize his home. Captain Rowles’ case identified systematic failures in JPMorgan’s SCRA procedures, resulting in illegal foreclosures, improper fees, and negative credit actions against servicemembers.⁸

Initially, JPMorgan announced that it would pay \$2 million to approximately 4,500 servicemembers.⁹ But within three months—by April 2011—JPMorgan conceded that its abuses were much worse. Instead of paying only \$2 million, the company agreed to pay \$56 million to settle claims that it overcharged military personnel and illegally seized the homes of active-duty military personnel protected by the SCRA.¹⁰

⁶ *Id.* at § 533(b).

⁷ *Id.* at § 527.

⁸ *JP Morgan Overcharged Troops on Mortgages*, NBC News (Jan. 17, 2011) (online at www.nbcnewyork.com/news/breaking/No__2_bank_overcharged_troops_on_mortgages-113875324.html). See also *Overcharges on Soldiers’ Mortgages Investigated*, NBC News (Jan. 26, 2011) (online at today.msnbc.msn.com/id/41043127/ns/today-money/t/overcharges-soldiers-mortgages-investigated/).

⁹ *JPMorgan Mails \$2 Million to Military Families for Overcharges, Lost Homes*, Bloomberg (Jan. 18, 2011) (online at www.bloomberg.com/news/2011-01-18/jpmorgan-mails-2-million-to-military-families-for-overcharges-lost-homes.html).

¹⁰ *JPMorgan Settles Military Mortgage Suits for \$56 Million*, Bloomberg (Apr. 21, 2011) (online at www.businessweek.com/news/2011-04-21/jpmorgan-settles-military-mortgage-suits-for-56-million.html).

Last month, JPMorgan ousted David Lowman, the mortgage chief who ran the company's home-lending unit since 2006.¹¹ JPMorgan CEO Jamie Dimon stated that this was the worst mistake the bank has ever made. At the company's May 17 annual shareholder meeting, he stated: "We deeply apologize to the military, the veterans, anyone who's ever served this country. ... We're sorry."¹²

B. Bank of America (Countrywide)

In May 2011, the Department of Justice announced that Bank of America Home Loan Servicing, formerly known as Countrywide Home Loans Servicing, would pay \$20 million for hundreds of SCRA violations. The Department determined that the bank "foreclosed on approximately 160 servicemembers between January 2006 and May 2009 without court orders." In addition to paying \$20 million for violations during this time period, the bank must also compensate servicemembers wrongfully foreclosed on from June 2009 through 2010.¹³

In announcing the settlement, André Birotte, the U.S. Attorney for the Central District of California, condemned the bank's violations:

Countrywide Home Loans failed to protect and respect the rights of our servicemembers, failed to comply with clearly mandated procedures and foreclosed against homeowners who are valiantly serving our nation. Military families lost their homes when Countrywide violated the law, causing undue stress to wartime personnel.¹⁴

James Jacks, the U.S. Attorney for the Northern District of Texas, was also critical:

With the numerous sacrifices our servicemembers make while they are serving our country, the last thing they need to worry about is whether or not their families will be forced from their homes. These lenders' callous disregard for the SCRA, a law which was designed to insulate these patriots from unlawful foreclosures and other civil and financial obligations while they are on active duty, is deplorable.¹⁵

According to the Department, the bank foreclosed on servicemembers in many instances

¹¹ *JPMorgan Ousts Home-Lending Chief After Foreclosure Lapses*, Bloomberg (June 14, 2011) (online at www.businessweek.com/news/2011-06-14/jpmorgan-ousts-home-lending-chief-after-foreclosure-lapses.html).

¹² *Id.*

¹³ Department of Justice, *Justice Department Settles with Bank of America and Saxon Mortgage for Illegally Foreclosing on Servicemembers* (May 26, 2011) (online at www.justice.gov/opa/pr/2011/May/11-crt-683.html).

¹⁴ *Id.*

¹⁵ *Id.*

“where it knew, or should have known, about their military status,” and the “victims include individuals who have served honorably in Iraq and Afghanistan.” The settlement requires SCRA training for bank employees and agents, referrals of future SCRA complaints to the Justice Department, and repairs to negative credit reports related to wrongful foreclosures.¹⁶

Bank of America Executive Vice President Terry Laughlin stated: “While most cases involve loans originated by Countrywide and the improper foreclosures were taken or started by Countrywide prior to our acquisition, it is our responsibility to make things right. These errors are not acceptable, and we certainly regret them.”¹⁷

C. Morgan Stanley (Saxon Mortgage Services, Deutsche Bank)

In March 2009, a federal judge ruled that National Guard Sergeant James Hurley, who was called to active duty in Iraq in 2004, was illegally foreclosed on in violation of the SCRA by a Morgan Stanley subsidiary, Saxon Mortgage Services, and Deutsche Bank Trust Company. The foreclosure forced Sergeant Hurley’s wife and two young children to find shelter elsewhere while he was deployed overseas.¹⁸

Despite the court ruling, it took Sergeant Hurley two years in continued litigation to settle his claims because the banks refused to pay any damages other than the sale value of the home, which was less than the mortgage Sergeant Hurley owed. The banks completed the foreclosure without the court hearing required by the SCRA, claiming there was no evidence Sergeant Hurley was on military duty. Yet the banks admitted in a court filing that one of their foreclosure attorneys “learned in April 2005 that Sergeant Hurley had been on active duty since the previous October.”¹⁹

In March 2011, the Department of Justice announced that it was investigating these and other illegal activities by Morgan Stanley and its subsidiary. The bank’s attorneys attempted to downplay the investigation, stating that it was “merely a preliminary investigation based on unproven allegations, for which no liability or wrongdoing has been found.”²⁰

Nevertheless, two months later, the Department of Justice announced that the bank would pay \$2.35 million to settle multiple claims of violations of the SCRA. The Department stated that, in addition to Sergeant Hurley’s illegal foreclosure, the banks foreclosed on other

¹⁶ *Id.*

¹⁷ *Mortgage Servicing Means Occasionally Having to Say You’re Sorry*, American Banker (May 27, 2011) (online at www.americanbanker.com/bankthink/mortgage-servicing-1038149-1.html).

¹⁸ *A Reservist in a New War, Against Foreclosure*, New York Times (Jan. 26, 2011) (online at www.nytimes.com/2011/01/27/business/27foreclose.html).

¹⁹ *Id.*

²⁰ *U.S. Inquiry on Military Family Foreclosures*, New York Times (Mar. 11, 2011) (online at www.nytimes.com/2011/03/12/business/12military.html).

servicemembers when they “knew or should have known about their military status,” including “men and women who have served honorably in Iraq, some of whom were severely injured in the line of duty.”²¹

Following the settlement, Morgan Stanley issued the following statement: “We want to apologize to those military families that were affected by any mistakes made in the foreclosure process.”²²

III. INTERAGENCY FINDINGS OF ILLEGAL ACTIONS AND “ELEVATED” CONCERN

In addition to reports about specific servicemembers and banks described above, an analysis by federal regulators raises a host of new concerns about the full scope of these abuses. On April 13, 2011, four agencies that regulate mortgage servicing companies—the Office of the Comptroller of the Currency, the Federal Reserve System, the Office of Thrift Supervision, and the Federal Deposit Insurance Corporation—issued a report finding widespread foreclosure abuses by 14 mortgage servicing companies, including multiple SCRA violations.

The report found “critical weaknesses in servicers’ foreclosure governance processes, foreclosure document preparation processes, and oversight and monitoring of third-party vendors, including foreclosure attorneys.”²³

The report also found violations of law that elevated the agencies’ level of concern across the board. The report stated:

[T]he weaknesses at each servicer, individually or collectively, resulted in unsafe and unsound practices and violations of applicable federal and state law and requirements. The results elevated the agencies’ concern that widespread risks may be presented—to consumers, communities, various market participants, and the overall mortgage market. The servicers included in this review represent more than two-thirds of the servicing market. Thus, the agencies consider problems cited within this report to have widespread consequences for the national housing market and borrowers.²⁴

²¹ Department of Justice, *Justice Department Settles with Bank of America and Saxon Mortgage for Illegally Foreclosing on Servicemembers* (May 26, 2011) (online at www.justice.gov/opa/pr/2011/May/11-crt-683.html).

²² *Mortgage Servicing Means Occasionally Having to Say You’re Sorry*, American Banker (May 27, 2011) (online at www.americanbanker.com/bankthink/mortgage-servicing-1038149-1.html).

²³ Federal Reserve System, Office of the Comptroller of the Currency, and Office of Thrift Supervision, *Interagency Review of Foreclosure Policies and Practices* (Apr. 13, 2011) (online at www.occ.treas.gov/news-issuances/news-releases/2011/nr-occ-2011-47a.pdf).

²⁴ *Id.*

With respect to servicemembers in particular, the report found “cases in which foreclosures should not have proceeded,” including against borrowers who were “covered by the Servicemembers Civil Relief Act.”²⁵

This review was based on only a sampling of a “relatively small number of files.” To address the widespread abuses identified in this cursory review, the agencies initiated enforcement action against all 14 banks, directing a comprehensive review of all files of affected homeowners “to identify borrowers that have been financially harmed and provide remediation.”²⁶

IV. ACTIONS BY CFPB AND MILITARY JAGs

The Dodd-Frank Wall Street Reform and Consumer Protection Act established the Consumer Financial Protection Bureau (CFPB) to protect consumers from unfair, deceptive, and abusive financial practices.²⁷ Under the leadership of Elizabeth Warren, the CFPB organized an Enforcement Division and an Office of Servicemember Affairs dedicated to protecting the rights of servicemembers and their families.

On January 4, 2011, Ms. Warren announced that Holly Petraeus would lead the Office of Servicemember Affairs. As the wife of General David H. Petraeus, the former top U.S. commander in Afghanistan, and the daughter of a career Army officer, Mrs. Petraeus previously served as the Director of BBB Military Line, a program that assisted military families on consumer issues.²⁸

After she was appointed, Mrs. Petraeus focused quickly on the issue of SCRA violations. In one of her first public statements in her new role, she spoke directly about the severe repercussions these violations have on servicemembers and their families. She stated:

It can be devastating. It is a terrible situation for the family at home and for the service member abroad, who feels helpless. I would hope that the recent problems will be a wake-up call for all banks to review their policies and be sure they comply with the act.²⁹

²⁵ *Id.*

²⁶ *Id.*

²⁷ Pub. L. No. 11-203 (2010).

²⁸ *Holly Petraeus Will Lead Consumer Financial Protection Bureau’s Office for Servicemember Affairs*, Washington Post (Jan. 4, 2011) (online at www.washingtonpost.com/wp-dyn/content/article/2011/01/04/AR2011010405627.html).

²⁹ *A Reservist in a New War, Against Foreclosure*, New York Times (Jan. 26, 2011) (online at www.nytimes.com/2011/01/27/business/27foreclose.html).

Within days, Mrs. Petraeus sent warning letters to the nation’s 25 top mortgage servicing companies, directing them “to take steps to educate all your employees about the financial protections that the SCRA provides and to review your loan files to ensure compliance.”³⁰

In addition, last week, on July 6, 2011, Mrs. Petraeus announced that the CFPB and the Judge Advocates General of the United States Army, Marine Corps, Navy, Air Force, and Coast Guard agreed to a number of steps “to provide stronger protections for servicemembers and their families.”³¹



Holly Petraeus adds her signature to an agreement between the CFPB and the Judge Advocates General.

Source: Consumer Financial Protection Bureau

For example, they agreed to establish “a single point of contact within the CFPB’s Enforcement Division that will allow members of the Judge Advocate Generals’ Corps to share information on consumer complaints from servicemembers and military families.” They also agreed to establish “a formal working group with the goal of achieving a coordinated response to unlawful conduct targeted at servicemembers and their families.”³²

³⁰ See, e.g., Letter from Holly Petraeus, Team Lead, Office of Servicemember Affairs, Consumer Financial Protection Bureau, to Brian T. Moynihan, CEO and President, Bank of America Corporation (Feb. 1, 2011).

³¹ Consumer Financial Protection Bureau, *Consumer Financial Protection Bureau and Military’s Top Uniformed Lawyers Release Joint Statement of Principles* (July 6, 2011) (online at www.consumerfinance.gov/pressrelease/consumer-financial-protection-bureau-and-militarys-top-uniformed-lawyers-release-joint-statement-of-principles/).

³² *Id.*

The top goal of this joint effort by CFPB and the nation’s top uniformed lawyers is to protect servicemembers and their families “from unlawful acts or practices by providers of consumer financial products or services, including through enforcement actions where necessary.”³³ In her statement announcing these steps, Mrs. Petraeus warned about the predatory practices of mortgage servicing companies:

I have worked for years trying to protect military families from predatory practices and to help raise awareness of the unique financial challenges they face—and I know the Judge Advocate Generals have been on the front lines in each of those fights. Servicemembers and their families sacrifice a great deal for our country and they deserve advocates who will use every available resource to protect them from financial threats.³⁴

A joint statement issued by the Judge Advocates General also warned about the predatory abuses by mortgage servicing companies:

Too often our Soldiers, Marines, Sailors, Airmen, and Coast Guardsmen are targeted by predatory lenders and they become victims of unfair financial practices. This agreement recognizes the crucial role financial readiness plays in mission readiness and we look forward to partnering with the Consumer Financial Protection Bureau to vigorously protect servicemembers and their families from unlawful acts or practices by providers of consumer financial products or services.³⁵

V. SERVICEMEMBER CASE STUDIES

A. Army National Guard Warrant Officer Charles Pickett

Chief Warrant Officer 3 Charles L. Pickett is a helicopter pilot in the Army National Guard who lives in Anthem, Arizona, with his two daughters. From 2009 to 2011, while he was on active duty, Bank of America attempted to foreclose on his home on three separate occasions in violation of the Servicemembers Civil Relief Act (SCRA). Attempting to prevent the foreclosure in the midst of his deployment to Iraq, Warrant Officer Pickett hired an attorney, Colonel John Odom. Although they were ultimately successful in halting the foreclosures, Bank of America’s actions resulted in damage to Warrant Officer Pickett’s credit, a cancelation of his credit line with USAA, and unnecessary stress while he was serving his country on the battlefield.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

Timeline

August 6, 2003: Mr. Pickett purchased a home with a mortgage from Countrywide Mortgage Loans (Bank of America acquired Countrywide in July 2008).

November 2003–October 2008: Mr. Pickett joined the Arizona National Guard as a Warrant Officer and helicopter pilot.

March 2009: Warrant Officer Pickett joined the Army National Guard.

May 5, 2009: Warrant Officer Pickett received orders to deploy to Iraq under Operation Iraqi Freedom. Although not required, Warrant Officer Pickett notified Bank of America that he had been ordered to active duty in Iraq. He served there until January 14, 2010, when he returned home with spinal injuries incurred while piloting his helicopter during operations.

July 2009: Bank of America offered Warrant Officer Pickett an unsolicited modification to his mortgage with lower monthly payments. He began making reduced payments in accordance with the modification agreement.

September 2009: Warrant Officer Pickett's daughter called him in Iraq to tell him that a notice had been posted on their front door stating that a foreclosure sale had been scheduled for December 7, 2009. When Warrant Officer Pickett called Bank of America, he was told that the modified payments he had been making for three months were insufficient under the terms of his original loan.

October 2009: Bank of America reported Warrant Officer Pickett as delinquent to at least one credit bureau. As a result, USAA canceled Warrant Officer Pickett's credit card.

November 2009: Warrant Officer Pickett retained Colonel John Odom, an attorney with Jones, Odom, Davis & Politz. Colonel Odom sent letters by certified mail to Bank of America and its foreclosure attorneys advising them that he was representing Warrant Officer Pickett and that his mortgage was protected under the SCRA. Bank of America never responded.

December 2, 2009: With the foreclosure sale scheduled for December 7, Colonel Odom sent a second letter requesting that Bank of America contact him immediately, and he included a written authorization from Warrant Officer Pickett for Colonel Odom to act on his behalf. Bank of America never responded.

December 3, 2009: Colonel Odom sent a third letter requesting that Bank of America's SCRA Department immediately halt the foreclosure sale. An employee from Bank of America's Home Loan Servicing Center informed Colonel Odom that his department could not stop the foreclosure. Colonel Odom then spoke with a second employee, then a third, and then left a voicemail with the bank's SCRA manager.

December 4, 2009: Colonel Odom spoke with an official in Bank of America's SCRA Department who stated that the foreclosure had been canceled and that he would provide written

confirmation of the cancellation to Colonel Odom. Bank of America never provided the confirmation.

December 7 and 11, 2009: Colonel Odom faxed letters to Bank of America's SCRA Department seeking confirmation that the foreclosure had been canceled. Bank of America did not respond.

January 2010: Warrant Officer Pickett decided to list his home for sale.

April 6, 2010: Several months later, on April 6, Warrant Officer Pickett called Colonel Odom to tell him that his real estate agent discovered a second foreclosure sale on his home while performing a title search. This foreclosure sale was scheduled for the next day, April 7. Colonel Odom immediately called Bank of America, who was unable to verify the foreclosure sale. According to a realtor Colonel Odom spoke with, tax records indicated that a foreclosure sale had indeed been set for April 7, 2010. The foreclosure sale did not go forward.

June 1, 2010: Two months later, on June 1, Warrant Officer Pickett sent an e-mail to Colonel Odom stating that his realtor had discovered a third foreclosure sale scheduled for two days later, on June 3, 2010. Colonel Odom immediately called Bank of America, who claimed that Warrant Officer Pickett's account was not being reviewed for foreclosure. Colonel Odom spoke with Bank of America's foreclosure attorneys, who informed him that Bank of America had indeed scheduled the foreclosure sale for June 3, 2010, and that the loan had been in foreclosure since September 1, 2009. The foreclosure sale did not go forward.

June 7, 2011: In response to a suit filed against Bank of America on behalf of Warrant Officer Pickett for violations of the SCRA, Bank of America settled the case for an undisclosed amount.

B. Army Captain Kenneth Gonzales

Kenneth R. Gonzales currently serves as a Captain and Medical Service Corps Officer in the U.S. Army in San Antonio, Texas, where he lives with his wife and four children. From December 2009 to December 2010, then-Lieutenant Gonzales was deployed to Iraq. During his deployment, his mortgage bank, Chase, attempted to foreclose on his home in violation of the Servicemembers Civil Relief Act (SCRA). Chase also made negative reports to credit bureaus regarding Lieutenant Gonzales' mortgage payments, causing his security clearance to be suspended. While he was in Iraq, Lieutenant Gonzales contacted the Federal Trade Commission and his Senator, Kay Bailey Hutchison. These officials reported Chase's actions to the American Bar Association and the Office of the Comptroller of the Currency. A year and a half later, the foreclosure has been halted and Captain Gonzales' security clearance has been reinstated, but the Gonzales family lost several months worth of mortgage payments as a result of Chase's actions.

Timeline

July 2005: Mr. Gonzales enlisted in the Army and later received his commission as Lieutenant.

November 2008: Lieutenant Gonzales obtained a home mortgage that was purchased by Chase.

November 2009: Lieutenant Gonzales informed Chase that he was being deployed to Iraq and began using online access to pay his mortgage.

December 2009: Lieutenant Gonzales attempted to pay his mortgage online from Iraq. Back in Texas, his wife also attempted to pay cash by phone. As a result, Chase locked out Lieutenant Gonzales from its online payment system for six months. Chase requested that Lieutenant Gonzales's wife instead mail money orders, and the bank provided an address to submit them.

January–May 2010: Each month, Lieutenant Gonzales's wife complied with Chase's request, went to her bank to obtain money orders, and mailed the money orders on time to the address Chase provided.

February 2010: Chase began reporting late mortgage payments by the Gonzales family to credit bureaus. Chase also scheduled a foreclosure sale of the Gonzales' home on April 10, 2010. Neither Lieutenant Gonzales nor his wife was aware that foreclosure had been initiated or that a sale date had been set.

April 2010: Chase sent a letter to the Gonzales' home asking them to call regarding their mortgage. When Mrs. Gonzales called, she was told that Chase was unsure why the letter was sent. During this discussion, there was no mention of late payments or foreclosure proceedings.

June 2010: When Lieutenant Gonzales was repeatedly denied access to Chase's online mortgage payment system, he inquired and soon after discovered that Chase had been reporting late mortgage payments to credit bureaus. He was also informed that his security clearance had been suspended as a result. His mission as one of ten soldiers responsible for delivering blood products in Iraq was compromised, and his access to information was restricted.

Lieutenant Gonzales contacted Chase repeatedly from Iraq, but its representatives were unwilling to consider that the bank was in error. Chase refused to correct the late payment reports to his credit and told Lieutenant Gonzales to expect a lawyer's letter demanding the repayment of fees associated with the foreclosure. By the end of June, Lieutenant Gonzales had not received any letter, and a number given to him by Chase for the bank's foreclosure attorney was out of service.

Lieutenant Gonzales took a number of affirmative steps from Iraq to address the situation. He filed a complaint with the Federal Trade Commission regarding Chase's mortgage practices, and he contacted his Senator, Kay Bailey Hutchison.

July 2010: Senator Hutchison sent a letter to the Department of Defense requesting assistance with Lieutenant Gonzales's case. She also contacted the Office of the Comptroller of the Currency regarding Chase's actions.

August–November 2010: An officer with the Legal Assistance Policy Division of the Army's Judge Advocate General (JAG) repeatedly faxed an authorization to Chase from Lieutenant Gonzales indicating that she was acting on his behalf. Chase officials told her it would take 48

to 72 hours to confirm receipt of the authorization, but they claimed repeatedly that they never received her faxes and would not accept e-mail.

The JAG officer reported Chase to the American Bar Association, which contacted a Senior Vice President at Chase. This official immediately arranged to remove the erroneous late payments on Lieutenant Gonzales's credit report. A Chase official admitted to the JAG officer that the original authorization she faxed on Lieutenant Gonzales's behalf indeed had been received on the first day she sent it.

May 2011: Lieutenant Gonzales was promoted to Captain, and his security clearance was reinstated. However, Chase claimed that it "misplaced" the five money orders sent in by Mrs. Gonzales from January through May 2010. Mrs. Gonzales was able to recover three of the five receipts for the money orders, but the remaining two receipts were never located. Due to Chase's actions, the Gonzales family had to pay two months worth of mortgage payments twice.

VI. EFFORTS BY RANKING MEMBER CUMMINGS TO INVESTIGATE

From the outset of the 112th Congress, Representative Elijah E. Cummings, the Ranking Member of the House Committee on Oversight and Government Reform, has sought a comprehensive investigation into abuses by mortgage servicing companies, including an examination of illegal foreclosures against servicemembers. To date, he has sent four letters to Representative Darrell E. Issa, the Chairman of the Committee, but Chairman Issa has declined to seek any information from mortgage servicing companies relating to these abuses.

On December 21, 2010, Ranking Member Cummings sent his first letter to Representative Issa in his new role as Chairman. Ranking Member Cummings requested that Chairman Issa make investigating foreclosure abuses one of the Committee's top priorities in the 112th Congress.³⁶

On February 25, 2011, Ranking Member Cummings sent a second, more detailed letter to Chairman Issa setting forth specific evidence of widespread abuses by mortgage servicing companies and outlining steps the Committee should take to investigate. This letter included specific information about illegal foreclosures against servicemembers and asked Chairman Issa to issue document requests to the nation's top ten mortgage servicing companies.³⁷

When Chairman Issa declined to send these document requests, Ranking Member Cummings sent them himself, requesting that the ten mortgage servicing companies produce

³⁶ Letter from Ranking Member Elijah E. Cummings to Chairman Darrell E. Issa (Dec. 21, 2010) (online at democrats.oversight.house.gov/index.php?option=com_content&task=view&id=5175&Itemid=49).

³⁷ Letter from Ranking Member Elijah E. Cummings to Chairman Darrell E. Issa (Feb. 25, 2011) (online at democrats.oversight.house.gov/images/stories/Correspondence/Foreclosure%20Letters/Cummings%20Letter%20to%20Issa.pdf)

documents relating to allegations of wrongful foreclosures, inflated fees, and other abusive practices.³⁸

On May 24, 2011, Ranking Member Cummings wrote a third letter to Chairman Issa, reporting that several mortgage servicing companies refused to provide documents in response to his previous requests. As a result, Ranking Member Cummings requested that Chairman Issa issue subpoenas to those mortgage servicing companies.³⁹

On June 21, 2011, Ranking Member Cummings wrote a fourth letter to Chairman Issa, marking the six-month anniversary of his first letter requesting the investigation. He provided additional information regarding abuses by mortgage servicers and reiterated his request for subpoenas for documents relating to illegal foreclosures, inflated fees, and other abuses. He wrote:

If mortgage servicing companies are allowed to disregard requests for documents that are integral to this investigation, the Committee's integrity will be called into question and, more importantly, abuses may continue.⁴⁰

³⁸ See, e.g., Letter from Ranking Member Elijah E. Cummings to Raymond D. Fortin, General Counsel, SunTrust Banks Inc. (Feb. 25, 2011) (online at democrats.oversight.house.gov/index.php?option=com_content&task=view&id=5229&Itemid=49).

³⁹ Letter from Ranking Member Elijah E. Cummings to Chairman Darrell E. Issa (May 24, 2011) (online at democrats.oversight.house.gov/index.php?option=com_content&task=view&id=5315&Itemid=49).

⁴⁰ Letter from Ranking Member Elijah E. Cummings to Chairman Darrell E. Issa (June 21, 2011) (online at democrats.oversight.house.gov/index.php?option=com_content&task=view&id=5350&Itemid=49).