



WRITTEN STATEMENT OF
KONRAD ALT
MANAGING DIRECTOR, PROMONTORY FINANCIAL
GROUP

BEFORE THE
UNITED STATES SENATE COMMITTEE ON BANKING,
HOUSING AND URBAN AFFAIRS
SUBCOMMITTEE ON HOUSING, TRANSPORTATION AND
COMMUNITY DEVELOPMENT

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Good afternoon, Mr. Chairman. My name is Konrad Alt. Since 2004, I have been a Managing Director of the Promontory Financial Group, responsible for our San Francisco office. Many years ago, however, I served as counsel to the Senate Banking Committee. I am honored to be back here again today.

The independent Foreclosure Review is not the only piece, but I hope it will be an important piece, of our country's efforts to address the foreclosure crisis. Our country cannot recover from this crisis until distressed homeowners and former homeowners who have been injured by errors in the foreclosure process receive the remediation they deserve. The Foreclosure Review seeks to accomplish this goal, and my colleagues and I are mindful that our role in it brings serious responsibilities. I want to commend you, Mr. Chairman, for your leadership in addressing the foreclosure issue and advancing transparency in regard to the Foreclosure Review.

My comments here today are my own and those of my firm. They do not necessarily reflect the views of any of the financial institutions with which Promontory is working, nor those of other independent consultants.

As you know, the independent Foreclosure Review grows out of a set of enforcement orders involving fifteen of our country's largest mortgage servicers and three federal bank regulatory agencies: the Office of the Comptroller of the Currency, the Federal Reserve Board and the Office of Thrift Supervision, now a part of the Office of the Comptroller of the Currency. Among other requirements, these orders direct each servicer to retain an independent consultant to conduct a "Foreclosure Review" of certain residential foreclosures for the purpose of finding borrowers who incurred financial injury as a result of errors, misrepresentations, or other deficiencies in the foreclosure process, so that they can receive appropriate remediation.

Early in 2011, several of the servicers that received these orders approached Promontory about our willingness and capacity to perform the required independent review. Three of them ultimately proposed to the OCC to engage us. In reviewing their proposals, the agency requested and we provided exhaustive information concerning our credentials and potential conflicts of interest. After considering that information, the agency approved all three engagements. As a result, I now head one of our firm's review teams and help to coordinate

Promontory's work in this area. Two of my colleagues head similar engagements at other institutions.

Given the millions of consumers involved, each with individual circumstances, this undertaking is complex by its very nature. Many things can go wrong with a mortgage or a foreclosure, and reviewing a particular file to ascertain what if anything did go wrong can be both difficult and time consuming. Yet an overly protracted review effort is not helpful to borrowers who have suffered or are at risk of suffering genuine financial injuries. My colleagues and I want you to know that we are working hard to do this job as fairly and effectively as possible, to the highest professional standards, and that every aspect of our work, from design to implementation to results, is fully transparent to the agencies and subject to agency examination and criticism.

Allow me to elaborate. Following approval of our retention, Promontory began to develop a methodology to meet the challenges presented by the Foreclosure Review. We developed that methodology in close consultation with regulatory examiners and subject matter experts, adapted it to the particular circumstances of the different servicers with which we are working, and detailed it in engagement letters that the regulators reviewed and commented on before authorizing their execution in September.

Our engagement letters, all of which the OCC has made public in redacted form on its website, make clear that Promontory works at the agency's direction.

Importantly, Promontory, not the servicers, determines what information to review in each borrower's file and whether financial injury has occurred.

Our engagement letters set forth a two-pronged approach to the Foreclosure Review.

The first prong of our approach consists of a meticulous review of a large number of files. We selected a large portion of these files based on known risk factors – for example, the commencement of foreclosure proceedings after the issuance of a stay in bankruptcy – and the remainder according to well-established statistical methods. Consistent with the requirements of the consent orders, we review each of the selected files with an eye to numerous specific questions relating to compliance with applicable state and federal laws, the reasonableness of fees and penalties, and the accuracy of servicer processing of borrower requests for loan modifications. Thus far, we have been seeking through this part of our review to gain a comprehensive and statistically rigorous understanding of the file characteristics associated with financial injury. We estimate that this effort will take our large team of analysts several months to complete. If we learn of additional file characteristics associated with financial injury, subsequent phases of work may entail further review of file population segments based on those characteristics.

This could potentially lead us to review tens or even hundreds of thousands of additional files.

The second prong of our approach to the Foreclosure Review is an outreach effort, intended to afford every in-scope borrower an opportunity to request an independent review of his or her foreclosure file. Through a combination of direct mail, advertising, and free media, we are trying to let all in-scope borrowers know about the review opportunity, encourage those who believe they may have been injured by servicer actions to request a review, and give them a form to submit, along with any additional documentation they would like to provide, to help our reviewers find and focus on the borrowers' specific issues. This outreach effort launched on November 1 and is now ongoing.

The file review and outreach efforts each have strengths and weaknesses. But in combination they represent a powerful approach to accomplishing the objectives of the Foreclosure Review. If we miss any borrowers who have been financially injured in our file review effort, those borrowers still have the opportunity to bring themselves to our attention through the outreach effort. Conversely, if the outreach effort fails to reach portions of the borrower population who have been injured, we should learn about that through the file review process and be able to take additional steps as appropriate.

The logistics of these reviews are formidable. Hundreds of professionals are working on my review team. Members of the team perform roles ranging from data entry to file review to statistical analysis, systems development, and various management responsibilities. The team includes many former bank examiners, attorneys and other professionals with relevant subject matter expertise. We have also retained our own counsel, independent of the servicer, to assist with issues of legal interpretation that arise in the course of our review. Like Promontory, our counsel faced careful regulatory review of its credentials and conflicts before we received authorization to retain them.

Quality control and quality assurance are integral to the success of this review, and we have taken care to build them into the design and execution of both the file review and outreach efforts. We conduct a mandatory training program for each reviewer. Team leads oversee the work of each reviewer and review every indication of an error in the foreclosure process. Our review processes also include extensive quality control systems and dozens of individuals with quality control responsibilities.

Further, a third group, somewhat in the nature of an internal audit function, has responsibility for Quality Assurance and reports directly to me. The Quality Assurance unit samples output from both the file review and outreach efforts to help maintain consistency and a high standard of performance across the two groups.

Mr. Chairman, our redacted engagement letters provide considerable additional detail concerning our approach to this assignment. We hope that you and your colleagues will see in that detail and in my comments here today evidence of a thoughtful, serious and professional effort – one worthy of the serious problem we are all trying to remedy. We are proud to contribute what we can to the solution, and we will do our part to the best of our individual and collective ability.

I will be pleased to try to answer any questions you or your colleagues may have for me.