

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

PERRY CAPITAL LLC, for and on behalf of investment funds for which it acts as investment manager,

Plaintiff-Appellant,

v.

JACOB J. LEW, in his official capacity as the Secretary of the Department of the Treasury, MELVIN L. WATT, in his official capacity as Director of the Federal Housing Finance Agency, UNITED STATES DEPARTMENT OF THE TREASURY, and FEDERAL HOUSING FINANCE AGENCY,

Defendants-Appellees.

Case No. 14-5243

PRELIMINARY STATEMENT OF ISSUES TO BE RAISED

In accordance with this Court's October 8, 2014 order, Appellant Perry Capital LLC respectfully submits this preliminary statement of issues to be raised in this appeal.

Perry Capital LLC seeks review of the Memorandum Opinion and Order Granting Defendants' Motions to Dismiss and Denying Plaintiffs' Cross-Motion for Summary Judgment entered on September 30, 2014 by the United States District Court for the District of Columbia (Lamberth, J.), in which the district court concluded that the Department of the Treasury's and Federal Housing Finance Agency's ("FHFA") execution of the "Net-Worth Sweep," transferring all

of the profits of Fannie Mae and Freddie Mac to Treasury in perpetuity, was shielded from judicial review by the jurisdictional provision of the Housing and Recovery Act of 2008 (“HERA”), 12 U.S.C. § 4617(f). Perry Capital LLC also seeks review of the Order Denying Motion for Supplementation of the Administrative Record, Limited Discovery, Suspension of Briefing on the Defendants’ Dispositive Motions, and a Status Conference entered on September 30, 2014.

The issues to be raised on appeal are:

1. Whether the district court erred in holding that 12 U.S.C. § 4617(f) bars all of Perry Capital LLC’s claims under the Administrative Procedure Act, including the claims that Treasury and FHFA exceeded their statutory authority and acted arbitrarily and capriciously.

2. Whether Treasury and FHFA violated the Administrative Procedure Act by entering into the Net-Worth Sweep, because the decision to enter the Net-Worth Sweep was, among other things, in excess of statutory authority and arbitrary and capricious.

3. Whether the district court erred in denying the motions to supplement the administrative record.

Dated: November 7, 2014

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of November, 2014, I electronically filed the foregoing Preliminary Statement of Issues to be Raised with the Clerk of the Court for the United States Court of Appeals for the D.C. Circuit by using the appellate CM/ECF system. Service was accomplished on the following counsel by the CM/ECF system:

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