

OPEN LETTER TO THE U.S. COURTS RE: GSE NATIONALIZATION

I am a former Fannie Mae employee and long-term Fannie Mae shareholder. While working at Fannie Mae (2001-2011), I invested the bulk of my then 8-year old daughter's college fund in Fannie Mae common stock, prior to the 2008 conservatorship. (My daughter is 17 now, and hopes to go to college next year; I hope we can afford it.) On the day that the government took over Fannie Mae and Freddie Mac, I lost 80% of the value of my holdings, as the market judged, correctly, that the terms of the takeover (aka "bailout") were terrible for shareholders.

Within Fannie Mae, the takeover's uniquely punitive terms, both immediate and longer term, relative to those provided to other "bailout" recipients, were widely understood as an attempt to destroy the company and its twin, Freddie Mac.¹ When the Treasury Secretary at the time of the takeover, Henry Paulson, revealed in his later book *On the Brink* that the takeover of Fannie Mae and Freddie Mac was essentially a corporate decapitation ("the first thing they'll hear is the sound of their heads hitting the floor"), the imagery of an assassination resonated with anyone who had been at Fannie Mae in 2008. Employees felt blindsided. Mr. Paulson's description of the takeover as an "ambush" is spot on.² The "bailout"/takeover was unrequested, unexpected, and wildly unpopular.

My shock and dismay at the events in 2008 were replaced by incredulity four years later, when, just as the GSEs were about to announce strong earnings, Treasury and FHFA instituted the "Net Worth Sweep", effectively stealing *all* profits from shareholders other than Treasury *in perpetuity*.³ I don't think there is any precedent in the United States for despotic behavior on this scale. In Cuba or China or the Soviet Union, certainly—but not in the U.S. I believe this is the largest financial theft in human history, currently amounting to well over \$100 billion.

I am baffled as to why it has taken so many years to litigate the Net Worth Sweep's legality. What FHFA and Treasury did is patently self-serving; patently in violation of FHFA's self-acknowledged, congressionally-mandated duty to preserve and conserve Fannie Mae and Freddie Mac assets; patently constitutes theft from GSE shareholders (I think our Constitution prohibits this); and *self-evidently wrong*. The desperate efforts by FHFA and Treasury to hide evidence from the courts and American people—more than 11,000 documents—are *self-evidently wrong*. The false statements told by, and/or on behalf of, Treasury and FHFA to the American people and the courts about the Net Worth Sweep are *self-evidently wrong*. These actions reek of malice, lawlessness and deceit.

My daughter has done nothing to deserve to have her college fund stolen by Treasury, and neither have I. We are not hedge fund tycoons or some other caricature. We are deeply patriotic, middle class Americans who cherish our country and the ideals on which it was founded. I was raised to respect and abide by the rule of law, and I have raised my daughter with the same values and expectations. As loyal citizens of the United States, I believe that my daughter and I are entitled to expect the same of government agents acting in their official capacity.

In the case of Fannie Mae and Freddie Mac, a cabal of unelected government officials has blatantly disregarded the law, trampled the rights of US citizens who own GSE stock, and commandeered the awesome coercive power of government for their own *highly* secretive ends. I hope that the courts will send a strong message that this type of behavior, while perhaps customary in a Banana Republic, is not tolerated in the United States of America.

Respectfully,

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¹ Terms included forced borrowing from Treasury that was *non-repayable* (who does that?) and carried an interest rate of 10%, much higher than that of other "bailout" recipients. Forced borrowing resulted from government-mandated reserves for future credit losses that were vastly higher than those required of other "bailout" recipients, and later proved to be grossly inflated. Importantly, these were accounting, not cash, losses. The difference is crucial: accounting losses are just entries in a ledger, whereas cash losses can bankrupt a company. ***The intended effect was to drown the GSEs in debt that they never needed—a "concrete life-preserver"***.

² "I'm a straightforward person. I like to be direct with people. But I knew that we had to ambush Fannie and Freddie. We could give them no room to maneuver." Quoted from *On the Brink*.

³ Treasury and FHFA's claims that they didn't know these profits were coming are laughable. Anyone who followed housing price indices in 2011-2012 and understood the basics of mortgage loan loss forecast models knew that large profits were imminent. Home prices were recovering fast months before the net worth sweep was announced, making it a *mathematical certainty* that projected credit losses would be reduced sharply, providing a large boost to profits. Treasury and FHFA *could not* have been unaware of this unless they were staffed by idiots, which they certainly were not. Treasury and FHFA have plainly lied about this, in my view.