

Following the *Wall Street Journal* story, “Congress’s Number Cruncher Comes under Fire,”¹ I realized that the true nature of the issues would not come out. Therefore, I am making public the letter that I wrote to Senator Grassley (Feb. 23, 2011) regarding circumstances that led to my firing after 2.5 months by the Congressional Budget Office (CBO), particularly my writing about mortgage fraud and its roots in mortgage securitization that CBO sought to deny was a problem.

For clarification, the WSJ did not give proper recognition to some individuals. My “supervisors” was Dr. Deborah Lucas, who was CBO chief economist and assistant director, and is currently tenured professor of finance and economics at the Massachusetts Institute of Technology (MIT). MIT Professor Lucas was called by the President to serve in a leadership role at CBO.² Morgan Stanley economist and CBO advisor, is the Vice President of Economics Research at Morgan Stanley, Richard “Dick” Berner, whose policy framework for refinancing stimulus was to be incorporated into my writing. Dr. Lucas also shared with me analyses from Goldman Sachs, also on the CBO’s distinguish panel of economic advisors, on the housing market such as the banks’ limited risks on mortgage buy-backs.

As a Congressional senior staffer, financial economist, my initial responsibilities were to write a brief (paper) to Congress on the state of the foreclosure crisis and the alternative policy options, as well as cover banking and housing. Almost to the exclusion of other policy options, CBO Assistant Director Lucas and senior management worked around Morgan Stanley’s policy framework and related ideas to present to Congress as the policy choice³. Below are excerpts from my letter to Senator Grassley:

I was repeatedly pressured by the CBO Assistant Director, Deborah Lucas... to not write nor discuss issues in the banking sector and mortgage markets that might suggest weakness in these sectors and their consequences on the economy and households...

CBO: Robo-signing, foreclosure fraud as “hype in the press”

When I wrote about the emerging foreclosure problems in September 2010, CBO Chief Economist Lucas maintained that robo-signing was media “sensationalism,” “*the kind of event of the moment where we should be adding skepticism, not just repeating the hype in the press*”; CBO wrote that my writing about it “*lacks judgment about what is important.*” Exploring this further in the letter,

...Issues at the heart of the foreclosure problems pertain to securitization....and the Mortgage Electronic Registration System (MERS), which purports to have legal standing on electronic records of ownership on about 65 million...mortgages... MERS...facilitated Wall Street’s ability to expedite the pooling of subprime mortgages into MBSs by bypassing standard ownership transfer procedures as the housing bubble escalated...

The implications have profound financial and economic consequences that would be of compelling interest to Congress and the public, but the CBO sought to silence a discussion of such risks, that in reality have been materializing. These risks put into question the ability of investors or bondholders to make claims on the collateral (the homes) that underlies trillions of dollars in MBSs, the bulk of which are now guaranteed

by ...Fannie Mae and Freddie Mac. This affects \$10 trillion in residential mortgage debt outstanding, of which \$7 trillion in mortgage-backed securities (MBSs)...

...

The CBO dismissing such issues prevents an analysis of the risks, so that the public may be forced again to shoulder the consequences for which they have not been a given a voice or a choice.

A month later after being told by CBO Chief Economist Lucas to not repeat this media hype, Georgetown University Law Professor Adam Levitin, Special Counsel to the Congressional Oversight Panel and scholar at the American Bankruptcy Institute, raised essentially the same issues in his testimony before the House Financial Services Committee⁴:

“The chain of title problems are highly technical issues, but they pose a potential systemic risk to the US economy. If mortgages were not properly transferred in the securitization process, then mortgage-backed securities would in fact not be backed by any mortgages whatsoever....”

These problems are very serious. At best they present problems of fraud on the court, clouded title to properties coming out of foreclosure, and delay in foreclosures that will increase the shadow housing inventory and drive down home prices. At worst, they represent a systemic risk that would bring the US financial system back to the dark days of the fall of 2008.” [Executive Summary, first page]

Essentially, the chain of title on securitized mortgages appears broken, whether or not there is a foreclosure. This would pertain to most homebuyers in the past 10 years as most mortgages were securitized by Fannie Mae and Freddie Mac providing the guarantees, and the largest banks (“The \$7 Trillion MBS Problem – Foreclosure Problems and Buybacks”). Recall that these same entities founded MERS, which expedited securitization and purported to have foreclosure authority from its electronic records of ownership on about 65 million mortgages. “Robo-signing” emerged as fraudulent or defective documents were used or created to establish the legal authority to foreclose as MERS faced legal challenges; as of July 22, 2011, foreclosures could no longer be initiated in MERS’ name.⁵ At last year’s pace, some figures suggest it could take lenders in New York 62 years to clear their foreclosure inventory, 49 years in New Jersey and a decade in Florida, Massachusetts, and Illinois.⁶

It is unclear how the recent State attorney generals’ agreement to a proposed yet unpublished terms of the \$25 billion robo-signing settlement would repair the chain of title issues that continue to mutate. In January 2011, the Massachusetts Supreme Judicial Court reversed the foreclosure actions of two banks for lacking proof of clear title, followed by a decision in October 2011 that a buyer who purchased a house that was improperly foreclosed upon does not make the buyer the new owner of the house; the sale does not transfer the property.⁷

A striking little mention fact of the Massachusetts foreclosure case was that the **lenders could not show that the two mortgages were part of the securitization pool.**⁸ Let’s consider a thought exercise. Others have raised the question: if the entity that has been taking the homeowners’ mortgage payments is not the real owner, what happens when the true owner(s) of

the mortgage shows up? Are homeowners on the hook again for those ‘missed’ mortgage payments? It was not uncommon for mortgages to be sold multiple times, and it is my understanding that loans were intentionally not given unique identifiers as it moved from origination or purchase through to securitization.

In response to the WSJ story, Director Elmendorf issued a public statement⁹ maintaining the integrity of CBO’s work, an excerpt which reads:

“... We have the utmost confidence in the objectivity of our work and devote considerable time and energy to explaining the basis of our findings as clearly as we can to help Members of Congress understand the work that we do.” (Bolded emphasis is CBO Director Elmendorf’s)

In early November 2010, a stunning example was CBO Director Elmendorf’s, a Harvard Ph.D. economist, view that employment growth in housing construction would spur economic growth, in his discussion of inputs into CBO’s macroeconomic forecast model. A question about the assumption was met with Director Elmendorf asking why they were “pessimistic” about such assumptions.

After my termination, Director Elmendorf stated that I should have followed directions from the more knowledgeable and experienced Chief Economist Lucas, taken the opportunity to learn from her. Director Elmendorf saw no ethical issues in her direction, but shifted to perhaps we had a difference of professional opinion. As I understand, Director Elmendorf and MIT Professor Lucas first claimed to Senator Grassley’s office that they could not speak about my termination due to personnel privacy protections, when none exists for Congressional employees. When given full immunity to speak freely to Senator Grassley’s office regarding my termination, they refused to speak.

It has been suggested to not mention these things in polite conversation, but I admit there were oddities following CBO’s termination. After CBO fired me at the end of the day saying “we do not know whether or what you know about economics, economic theory or finance,” I returned to my office to make a phone call. Everyone had left, but there was a silhouette of a man standing in the dark in an office across the courtyard watching me during the 15-20 minute phone call. Later, I came home to find some papers had been moved and could no longer find some important documents pertaining to this case. I attempted to retrieve these documents from my office at CBO, but the power to my office was shut down precisely as the documents from my computer were about to be e-mailed to me; the entire floor and building were unaffected. At about 3 a.m. during a week day, there was sudden a loud crash into my front door followed by complete silence. Perhaps it was just a complimentary early wake-up call.

The truth is still what it is.

As I have come to learn, the issue of foreclosure fraud ‘robo-signing’ seems to be spoken in hushed tones near the powers of Washington D.C. CBO has the ear of Congress and can make or break policies that affect the nation with its analyses.

Who is the CBO serving?

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¹ February 2, 2012. Released online, February 1, 2012.

² MIT's "The Tech" publication, September 4, 2009, "[MIT] Professors Called to Washington to Serve, Advise the President," <http://tech.mit.edu/V129/N33/dcprofs.html>.

³ One would be correct to point out that CBO does not make policy.

⁴ November 18, 2010 "Robo-Signing, Chain of Title, Loss Mitigation, and Other Issues in Mortgage Servicing," <http://financialservices.house.gov/Media/file/hearings/111/Levitin111810.pdf>

⁵ *MERS Policy Bulletin_2001-5.pdf*, www.mersinc.org

⁶ New York Times, June 19, 2011. "Backlog of Cases Gives a Reprieve on Foreclosures," <http://www.nytimes.com/2011/06/19/business/19foreclosure.html?pagewanted=all>

⁷ Bloomberg, October 18, 2011, "Buyer Can't Sue After Bad Foreclosure Sale," <http://www.bloomberg.com/news/2011-10-18/buyer-can-t-bring-case-after-bad-foreclosure-sale-court-rules.html>

U.S. Bank v. Ibanez

⁸ January 7, 2011. "Breaking News: U.S. Bank v. Ibanez Foreclosure Ruling Upheld: An Indictment Of The Securitized Mortgage System," <http://www.massrealestatelawblog.com/2011/01/07/ibanez-foreclosure-ruling-upheld-an-indictment-of-the-securitized-mortgage-system/>

⁹ CBO Director's Blog, <http://cbo.gov/publication/42917>