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ONE HUNDRED TWELFTH CONGRESS

## U.S. House of Representatives

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### **STATEMENT OF THE CHAIRMAN AND RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING ALLEGATIONS CONCERNING THE “V.I.P.” LOAN UNIT OF COUNTRYWIDE FINANCIAL CORPORATION**

Today we announce the conclusion of the Committee on Ethics’ review of the allegations related to the “V.I.P.” program of the Countrywide Financial Corporation (Countrywide). In accordance with Committee Rules, this review was conducted in order to determine whether the allegations presented warranted further investigation by the Committee. After a lengthy and deliberate review, including over 2,000 of pages of documentation provided by Countrywide or its successor, Bank of America, as well as giving careful and serious consideration to the submission and reports of the Chairman of the Committee on Oversight and Government Reform, the Committee has unanimously agreed to end its review with the publication of this statement, and the issuance of a general advisory issued simultaneously on the subject of the use of one’s position in the House of Representatives for personal gain or benefit.

Numerous allegations have been made that certain Members and employees of the House of Representatives acted improperly when they received “discounts” on personal residential or vacation property loans, or when their loan applications were handled by an office within Countrywide called the “V.I.P Loan Unit,” or handled as “Friends of Angelo,” referring to Angelo Mozilo, the former CEO of Countrywide. In addition, the evidence suggested that certain House employees made explicit requests to Countrywide lobbyists or spoke to a Countrywide lobbyist about their personal loan needs, and that the lobbyists then facilitated those loans.

While these allegations concern serious matters, almost all of the allegations concerned actions taken outside, or well outside, the jurisdiction of this Committee, as designated in House Rule XI, clause 3(b)(3), because they occurred before the third Congress prior to the current Congress. In addition, several of the Members and employees mentioned in the allegations are no longer serving in or employed by the House, and therefore are outside the Committee’s jurisdiction pursuant to House Rule XI, clause 3(a)(2).

However, while there are no allegations of actual violations that fall within the Committee’s jurisdiction, we take this opportunity to provide the House community and the

public at large with an analysis of these allegations, and guidance that may be helpful in considering future conduct and avoiding even the appearance of impropriety.

To begin with, the Committee conducted its own analysis of the role and practices of the Countrywide V.I.P. loan unit to determine if participation on its own indicated something improper had occurred. The Committee reached largely the same conclusion as the Senate Select Committee on Ethics, which indicated in 2009, in public letters to Senators also involved in the V.I.P. unit, that:

It appears the V.I.P. Loan unit was initially established for the purposes of originating, processing, and funding home loans as a courtesy to senior-level employees and V.I.P. customers, but it increasingly grew in scope and size. A large subset of V.I.P. loans referred by Angelo Mozilo, former Countrywide C.E.O., were known as the “Friends of Angelo” or F.O.A. During the mortgage boom that occurred from late 2002 through 2004, the V.I.P. loan unit handled thousands of loans worth billions of dollars for a very broad spectrum of individuals, large numbers of whom had never met, let alone befriended, Mr. Mozilo.

Overall it appears that V.I.P.s were often offered quicker, more efficient loan processing and some discounts. However, it also appears that all V.I.P. loans, including F.O.A. loans, were required to meet the same underwriting standards and conditions for resale on the secondary market as non-V.I.P. loans. Furthermore, there is evidence on the record that the discounts offered to V.I.P.s and F.O.A.s were not the best deals that were available at Countrywide or in the marketplace at large. In sum, participation in the V.I.P. or F.O.A. programs did not necessarily mean that borrowers received the best financial deal available either from Countrywide or other lenders.

Therefore, mere inclusion in one of these programs is not, in and of itself, a violation of any rules, laws, or standards of conduct governing Members, officers, or employees of the House of Representatives. In addition, insofar as the widely available and indisputable evidence indicates that loan “discounts” or “discount points” are labels applied to standard and publicly available terms in every day arms-length negotiations with commercial lenders, they are not the kind of “gift” which would be, in and of itself, outside the realm of reasonable market rates for commercially available loans. Finally, given that the standard market practices on negotiating for desirable loan customers varies widely, it is not evident that any of the fee structures presented by the evidence are outside of reasonable market rates for commercially available loans, even if those loans were within the jurisdiction of the Committee.

To be clear, however, whether terms are within or without a commercially reasonable range, it is improper to knowingly use one’s position or influence within the House of Representatives to obtain a personal benefit. Therefore, if a Member, officer, or employee has reason to believe there was such an explicit connection between their position and some personal business transaction, it is incumbent on that Member, officer, or employee to take steps to ensure they are being treated no differently than a member of the public who is similarly situated in other relevant ways. Without doubt, there is a wide range of possible and appropriate steps. For



instance, while the steps reportedly taken by Representative Pete Sessions, rejecting any offers of negotiated discounts, are an excellent way to avoid even the appearance of impropriety, there is still no requirement that a Member, officer, or employee refuse to participate in normal negotiations, or refuse to accept terms of negotiation regularly available to a member of the public.. In other words, while Members, officers, and employees must not personally benefit in a manner directly caused by their position, they also need not suffer financially due to nothing but their position.

Instead, other steps that may be taken if and when a Member or employee is given specific reason to believe they may be treated differently based on their position include receiving reasonable assurances or certifications that the offered terms are commercially reasonable and would be available to the borrower based entirely on reasons unrelated to the individual's position in the House. Another option that is always available to all Members, officers and employees is calling the Ethics Committee for assistance in examining the nature of the loan offer and negotiations.

While these are just some of the steps that may be taken to avoid the appearance of impropriety, they would not be required under normal commercial circumstances when one visits or calls a commercial institution for a loan, indicates their place of employment only on a loan application (as is almost always required) and continues to be handled by the regular loan department. In this matter, for instance, with one exception occurring well outside the Committee's jurisdiction, there has been no evidence presented that the Members or employees of the House of Representatives were aware of their inclusion in the V.I.P. unit or that they were labeled "Friends of Angelo." If, however, they were referred by, or handled by, persons who were not regular loan officers, or, more significantly, persons involved in congressional affairs, then steps should have been taken to ensure that no improper connection was being made between their sphere of influence and their personal loan negotiations.

Of greatest concern to the Committee, therefore was email evidence regarding the specific conduct of some employees of the House of Representatives who may have reached out to lobbyists or other government affairs officials at Countrywide for assistance with their personal loans (there was no such credible evidence that Members engaged in this kind of conduct). Had any of these actions occurred within the Committee's jurisdiction, further investigations would have been conducted that may have led to disciplinary action against these staffers or former staffers. This is because, as most Members, officers, and employees understand, it is improper to, for instance, take a meeting with a representative of an outside organization or a constituent seeking some action or general assistance, and then immediately make a request for assistance with one's own personal finances at the same meeting. This conduct is not made any less improper merely because there is some separation in time between a past or future meeting and the personal request.

Therefore, every member of the House community should understand that, when your relationship with a representative of a particular business or outside organization is based on your power to affect that person's organization, and their efforts to influence you or your office in the exercise of that power, that is a relationship that should never be used for your personal benefit. Where there is credible evidence of such conduct within the jurisdiction of this Committee, the Committee will act to enforce this standard.

However, for all the reasons indicated above, and after lengthy and careful consideration, it does not appear that there is any specific credible evidence of actual violations that remain within the jurisdiction of the Committee. The Committee therefore has unanimously determined to end its consideration of allegations related to improper participation in Countrywide's V.I.P. program.

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