

ADOPTED BY THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT ON JUNE 30, 2010

111th CONGRESS, 2nd SESSION
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

IN THE MATTER OF REPRESENTATIVE LAURA RICHARDSON

June 30, 2010

Ms. LOFGREN, from the Committee on Standards of Official Conduct, submitted
the following

REPORT

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Tom Rust, *Counsel*
Donald Sherman, *Counsel*
Frank Davies, *Senior Investigator*
Amelia Johnson, *Investigative Clerk*

INVESTIGATIVE SUBCOMMITTEE

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Tom Rust, *Counsel*
Donald Sherman, *Counsel*
Frank Davies, *Senior Investigator*
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I. INTRODUCTION

The Committee on Standards of Official Conduct (Standards Committee) submits this Report pursuant to Rule XI, clause 3(a)(2), of the Rules of the U.S. House of Representatives (House Rules), which authorizes the Committee to investigate any alleged violation by a Member, officer, or employee of the House of Representatives, of the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee.

Based on the findings and conclusions of the Investigative Subcommittee following a thorough seven-month investigation, the Standards Committee unanimously voted to dismiss its review of the allegations regarding Representative Laura Richardson that were referred to the Standards Committee by the Office of Congressional Ethics (OCE). Representative Richardson did not knowingly accept a gift from Washington Mutual or violate any applicable standard of conduct in connection with the purchase of, foreclosure on, rescission of foreclosure sale for, or modification of loan terms for a residential property she owns in Sacramento, California. In addition, Representative Richardson did not violate the Ethics in Government Act (EIGA) in connection with her financial disclosure statements relating to her California properties.

II. INVESTIGATION

On August 6, 2009, OCE forwarded to the Standards Committee a report and findings (Report and Findings) recommending further review of allegations involving Representative Richardson. OCE's Report and Findings stated that there was "substantial reason to believe" that "Representative Richardson violated House Rule 25, clause 5(1)(A)(i) and clause 5(3)(R)(v) by knowingly receiving preferential treatment from Washington Mutual Bank in the form of the postponement and/or rescission of the foreclosure sale of her home." However, OCE's Report and Findings stated that there was "not substantial reason to believe" that "Representative Richardson violated House Rule 26 (financial disclosure) by failing to disclose her Sacramento home as an asset and her mortgage liability on her financial disclosure forms." OCE's Report and Findings further stated that there was "not substantial reason to believe" that: "Representative Richardson violated House Rule 25, clause 5(1)(A)(i) and clause 5(3)(R)(v) by

knowingly receiving professional yard care services from her neighbors. Further, even if a violation occurred it would be *de minimis*.”

On August 6, 2009, the Standards Committee began an initial investigation pursuant to Standards Committee Rule 18(a) into the matters in OCE’s Report and Findings. On September 15, 2009, the Standards Committee voted to extend the matter regarding Representative Laura Richardson for forty-five days. During its initial investigation, the Standards Committee authorized the issuance of three subpoenas. The documents collected by the Standards Committee during its initial investigation included Representative Richardson’s loan application for her property in Sacramento, California. The loan application, and the supporting documents submitted with the application, indicated that Representative Richardson was receiving rental income from two residential properties she owned in San Pedro, California and Long Beach, California. At the time of the initial investigation, Representative Richardson had never disclosed any rental income on any Financial Disclosure Statement.

Based on the results of its initial investigation, and in accordance with clause 3 of House Rule XI and Standards Committee Rules 14(a)(6), 17A(f), and 19, the Standards Committee unanimously voted to establish an investigative subcommittee on October 29, 2009, to determine whether Representative Laura Richardson violated the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to her conduct in the performance of her duties or the discharge of her responsibilities by failing to disclose certain real property, income and liabilities on her financial disclosure forms (and amendments thereto) and whether Representative Richardson received an impermissible “gift” or received preferential treatment from her lender relating to the foreclosure, rescission of the foreclosure sale, or loan modification agreement for or relating to her property in Sacramento, California.¹

The Investigative Subcommittee conducted a thorough seven-month investigation. The Investigative Subcommittee authorized the issuance of fourteen subpoenas; interviewed seven witnesses; and reviewed approximately seven thousand pages of documents. The Investigative

¹ The Standards Committee did not grant the Investigative Subcommittee jurisdiction to investigate whether Representative Richardson “violated House Rule 25, clause 5(1)(A)(i) and clause 5(3)(R)(v) by knowingly receiving professional yard care services from her neighbors.” As noted above, OCE’s Report and Findings concluded that “there is not substantial reason to believe” that she committed such a violation, and that even had such a violation occurred, it would have been *de minimis*.

Subcommittee also hired an independent consultant with experience in the mortgage industry to advise the Investigative Subcommittee. At the conclusion of the Investigative Subcommittee's investigation, the independent mortgage consultant reviewed the documents collected by the Investigative Subcommittee and the transcripts of the Investigative Subcommittee's interviews. Based on his review of the documents and interview transcripts, the mortgage consultant advised the Investigative Subcommittee as to whether the actions of Washington Mutual Bank (Washington Mutual), the bank that granted Representative Richardson the loan to purchase her Sacramento, California property, were commercially reasonable practices within the mortgage industry. Following its investigation, the members of the Investigative Subcommittee voted unanimously to adopt a report which was presented to the Standards Committee.

On June 30, 2010, the Standards Committee unanimously voted to adopt the Report of the Investigative Subcommittee and includes that Report herewith as part of the Standards Committee's Report to the House of Representatives on this matter. By this act, the Standards Committee adopts the findings, conclusions, and recommendations of the Investigative Subcommittee.

III. FINDINGS AND CONCLUSIONS

The Standards Committee voted unanimously to release a public Report finding that Representative Richardson did not knowingly accept a gift from Washington Mutual or violate any applicable standard of conduct in connection with the purchase of, foreclosure on, rescission of foreclosure sale for, or modification of loan terms for a residential property she owns in Sacramento, California. In addition, Representative Richardson did not violate the Ethics in Government Act (EIGA) in connection with her financial disclosure statements relating to her California properties.

First, Representative Richardson did not knowingly make false statements in her mortgage application. Because the date of her closing was her first full day as a member of the California State Assembly and she was unable to attend the closing, Representative Richardson admitted that she did not review the mortgage application as closely as she should have and was not aware that the mortgage broker had forged documents included with the application.

The mortgage broker Representative Richardson used in connection with the purchase of her Sacramento property, without her knowledge, committed criminal fraud by claiming rental income for Representative Richardson on her mortgage application and forging rental agreements to act as supporting documents for this income. The Investigative Subcommittee found that, in calendar years 2007 and 2008, Representative Richardson did not lease or otherwise receive any rental income from the residential properties she owns in San Pedro, California; Long Beach, California; or Sacramento, California. However, Representative Richardson's mortgage broker Charles Thomas – who received a loan broker fee of nearly \$11,000 – admitted to the Investigative Subcommittee that he knowingly created and signed fake rental agreements and submitted that fraudulent information to Washington Mutual in connection with Representative Richardson's mortgage application. The independent mortgage consultant retained by the Investigative Subcommittee concluded that this was a case of “fraud for profit” by the mortgage broker, not a case of fraud by Representative Richardson. As such, she was the victim of mortgage fraud. The Standards Committee unanimously voted to refer Mr. Thomas to the Justice Department for further action as it deems necessary and appropriate.

The Investigative Subcommittee further found that Washington Mutual's actions in this case were commercially reasonable and that the bank treated Representative Richardson the same as Washington Mutual would treat any other similarly situated customer. First, Washington Mutual made a commercially reasonable business decision to place a temporary hold on the foreclosure proceedings for Representative Richardson's Sacramento property after Representative Richardson's employment changed and she contacted Washington Mutual seeking to reinstate the loan. Second, Washington Mutual mistakenly allowed the foreclosure sale of Representative Richardson's Sacramento property after informing her in writing that Washington Mutual had placed a sixty day hold on the foreclosure proceedings. Washington Mutual made a commercially reasonable business decision to rescind the foreclosure sale of Representative Richardson's Sacramento home due to its mistake, and in doing so treated her the same as it would any other similarly situated customer. (As a result of its mistake, Washington Mutual settled a lawsuit filed by the purchaser by refunding the foreclosure sale amount, paying the buyer an additional \$100,000, and signing a nondisclosure agreement between the parties.) Finally, after rescinding the sale, Washington Mutual made a commercially reasonable business

decision, based on Representative Richardson's change in circumstances, to modify Representative Richardson's mortgage on her Sacramento home.

Based on the findings and conclusions of the Investigative Subcommittee, on June 30, 2010, the Standards Committee unanimously voted to dismiss its review of the allegations regarding Representative Richardson that were referred to the Standards Committee by OCE. OCE's Report and Findings are contained within the Standards Committee's Report.

The Standards Committee thanks the members of the Investigative Subcommittee for their hard work, dedication, and service to the Committee and to the House. Representative Ben Chandler served Chair of the Investigative Subcommittee. Representative Gregg Harper served as Ranking Republican Member. Representatives Emmanuel Cleaver, II and Sue Myrick also served on the Subcommittee. Each of these members devoted substantial time and effort to the investigation, and the Committee thanks each of them for their service.

II. STATEMENT UNDER RULE XIII, CLAUSE 3(c) OF THE RULES OF THE HOUSE OF REPRESENTATIVES

The Standards Committee made no special oversight findings in this report. No budget statement is submitted. No funding is authorized by any measure in this report.

111TH CONGRESS, 2ND SESSION

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

June 30, 2010

REPORT OF THE INVESTIGATIVE SUBCOMMITTEE

IN THE MATTER OF REPRESENTATIVE LAURA RICHARDSON

Mr. Chandler, from the Investigative Subcommittee, submitted the following

REPORT

To the Committee on Standards of Official Conduct

EXECUTIVE SUMMARY

After an exhaustive investigation, the investigative subcommittee (Investigative Subcommittee) empanelled to review Representative Laura Richardson's conduct relating to her ownership of her California residences and related financial disclosure obligations found that:

- In calendar years 2007 and 2008, Representative Richardson did not lease or otherwise receive any rental income from the residential properties she owns in San Pedro, California; Long Beach, California; or Sacramento, California;
- The mortgage broker Representative Richardson used in connection with the purchase of her Sacramento property, without her knowledge, committed criminal fraud by claiming rental income for Representative Richardson on her mortgage application and forging rental agreements to act as supporting documents for this income;
- Washington Mutual Bank (Washington Mutual) – the bank that ultimately gave Representative Richardson a loan to purchase her Sacramento property – made a commercially reasonable business decision to place a temporary hold on the foreclosure proceedings for Representative Richardson's Sacramento property after Representative Richardson contacted Washington Mutual seeking to reinstate the loan, and in doing so treated Representative Richardson the same as it would any other similarly situated customer;
- Washington Mutual mistakenly allowed the foreclosure sale of Representative Richardson's Sacramento property after informing her in writing that Washington Mutual had placed a sixty-day hold on the foreclosure proceedings;
- Washington Mutual made a commercially reasonable business decision to rescind the foreclosure sale of Representative Richardson's Sacramento home due to its mistake, and in doing so treated Representative Richardson the same as it would any other similarly situated customer; and

- Washington Mutual made a commercially reasonable business decision to modify Representative Richardson's mortgage on her Sacramento home, and in doing so treated Representative Richardson the same as it would any other similarly situated customer.

Based on these findings, the Investigative Subcommittee concluded that:

- Representative Richardson did not knowingly accept a gift from Washington Mutual or violate any applicable standard of conduct in connection with the purchase of, foreclosure on, rescission of foreclosure sale for, or modification of loan terms for a residential property she owns in Sacramento, California; and
- Representative Richardson did not violate the Ethics in Government Act (EIGA) in connection with her financial disclosure statements relating to her California properties.

Given its findings and conclusions, the Investigative Subcommittee decided not to adopt any Statement of Alleged Violation in this case, and instead to draft this report and to make the following recommendations to the Standards Committee:

- The Investigative Subcommittee recommends that the Standards Committee dismiss its review of the allegations regarding Representative Richardson that were referred to the Standards Committee by the Office of Congressional Ethics; and
- The Investigative Subcommittee further recommends that the Standards Committee refer the matter involving Charles Thomas, the mortgage broker used in connection with the purchase of Representative Richardson's Sacramento property, who during the course of the investigation admitted to knowingly submitting fraudulent information to Washington Mutual in connection with Representative Richardson's mortgage application, to the Justice Department for such action as the Department deems necessary and appropriate.

I. INTRODUCTION

The Investigative Subcommittee submits this Report to the Committee on Standards of Official Conduct (Standards Committee) pursuant to Standards Committee Rule 19(g) and the Standards Committee's October 29, 2009, resolution, which established the Investigative Subcommittee with jurisdiction to determine whether Representative Laura Richardson violated the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to her conduct in the performance of her duties or the discharge of her responsibilities by failing to disclose certain real property, income and liabilities on her financial disclosure forms (and amendments thereto) and whether Representative Richardson received an impermissible "gift" or preferential treatment from her lender relating to the foreclosure, rescission of the foreclosure sale or loan modification agreement for or relating to her property in Sacramento, California.

On March 26, 2009, at least two members of the board of the Office of Congressional Ethics (OCE) made a written request to commence a preliminary review of Representative Richardson's conduct, and OCE commenced its preliminary review of the matter on April 2, 2009.¹ On April 24, 2009, at least three members of OCE's board voted to initiate a second phase of the review, and OCE commenced its second phase review on May 1, 2009.² On June 12, 2009, OCE's board voted to extend the second phase review for an additional 14 days.³ OCE's second phase review ended on June 30, 2009.⁴ OCE's board adopted its findings and voted to refer the matter to the Standards Committee for further review on July 24, 2009.⁵ On August 6, 2009, OCE forwarded to the Standards Committee a report and findings (Report and Findings) recommending further review of allegations involving Representative Richardson.⁶

OCE's Report and Findings stated that there was "substantial reason to believe" that "Representative Richardson violated House Rule 25, clause 5(1)(A)(i) and clause 5(3)(R)(v) by

¹ Office of Congressional Ethics, *Report and Findings in the Matter of Representative Laura Richardson*, Review 09-4162, (August 6, 2009), ¶ 9 (hereinafter Report and Findings). A copy of OCE's Report and Findings can be found at Appendix C. (CSOC.RICH.010130 to CSOC.RICH.010339)

² *Id.* at ¶ 10.

³ *Id.* at ¶ 11.

⁴ *Id.* at ¶ 12.

⁵ *Id.* at ¶ 13.

⁶ *Id.* at p. 1.

knowingly receiving preferential treatment from Washington Mutual Bank in the form of the postponement and/or rescission of the foreclosure sale of her home.”⁷ However, OCE’s Report and Findings stated that there was “not substantial reason to believe” that “Representative Richardson violated House Rule 26 (financial disclosure) by failing to disclose her Sacramento home as an asset and her mortgage liability on her financial disclosure forms.”⁸ OCE’s Report and Findings further stated that there was “not substantial reason to believe” that: “Representative Richardson violated House Rule 25, clause 5(1)(A)(i) and clause 5(3)(R)(v) by knowingly receiving professional yard care services from her neighbors. Further, even if a violation occurred it would be de minimis.”⁹

On August 6, 2009, the Standards Committee began an initial investigation into the matters in OCE’s Report and Findings. The Standards Committee conducted its initial investigation in this matter pursuant to Standards Committee Rule 18(a), which authorizes the Committee to consider any information in its possession indicating that a Member, officer, or employee may have committed a violation of the Code of Official Conduct or of any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of the duties or the discharge of the responsibilities of such individual. Standards Committee Rule 18(a) further authorizes the Chair and Ranking Member to jointly gather additional information concerning such an alleged violation by a Member, officer, or employee unless and until an investigative subcommittee has been established. On September 15, 2009, the Standards Committee voted to extend the matter regarding Representative Richardson for forty-five days.

During its initial investigation, the Standards Committee authorized the issuance of three subpoenas. The documents collected by the Standards Committee during its initial investigation included Representative Richardson’s loan application for her property in Sacramento, California. Representative Richardson’s loan application, and the supporting documents submitted with the application, indicated that Representative Richardson was receiving rental income from two residential properties she owned in San Pedro, California, and Long Beach,

⁷ *Id.* at ¶ 5.

⁸ *Id.* at ¶ 6.

⁹ *Id.* at ¶ 7.

California. At the time of the initial investigation, Representative Richardson had never disclosed any rental income on any Financial Disclosure Statement.

Based on the results of its initial investigation, the Standards Committee established an investigative subcommittee on October 29, 2009, with jurisdiction to determine whether Representative Richardson violated the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to her conduct in the performance of her duties or the discharge of her responsibilities by failing to disclose certain real property, income, and liabilities on her financial disclosure forms (and amendments thereto) and whether Representative Richardson received an impermissible “gift” or received preferential treatment from her lender relating to the foreclosure, rescission of the foreclosure sale, or loan modification agreement for or relating to her property in Sacramento, California.¹⁰

The Investigative Subcommittee conducted its investigation in this matter pursuant to Standards Committee Rule 19, which authorizes the Investigative Subcommittee to consider any evidence relevant to its inquiry and to require by subpoena or otherwise, the attendance and testimony of witnesses and the production of such books, records, correspondence, memoranda, papers, documents, and other items as it deems necessary to conduct the inquiry. During the course of its investigation, the Investigative Subcommittee authorized the issuance of fourteen subpoenas; interviewed seven witnesses; and reviewed approximately seven thousand pages of documents. Several of the witnesses that the Investigative Subcommittee interviewed were former employees of Washington Mutual Bank (Washington Mutual), which was the bank that loaned Representative Richardson the money to purchase her Sacramento property. Many of the relevant documents in this matter were in the possession of JPMorgan Chase, which purchased the assets of Washington Mutual on September 25, 2008, after Washington Mutual was seized by the Office of Thrift Supervision (OTS). Washington Mutual’s seizure by OTS and the subsequent purchase of its assets by JPMorgan Chase contributed to some delay in the Investigative Subcommittee’s efforts to locate certain witnesses and documents relevant to this matter.

¹⁰ The Standards Committee did not grant the Investigative Subcommittee jurisdiction to investigate the allegation in OCE’s Report and Findings that Representative Richardson “violated House Rule 25, clause 5(1)(A)(i) and clause 5(3)(R)(v) knowingly receiving professional yard care services from her neighbors.” Report and Findings, ¶ 7.

The Investigative Subcommittee also hired an independent consultant with experience in the mortgage industry to advise the Investigative Subcommittee.¹¹ At the conclusion of the Investigative Subcommittee's investigation, the independent mortgage consultant reviewed the documents collected by the Investigative Subcommittee and the transcripts of the Investigative Subcommittee's interviews. Based on his review of the documents and interview transcripts, the mortgage consultant advised the Investigative Subcommittee as to whether Washington Mutual's actions in this case were commercially reasonable practices within the mortgage industry.

The Investigative Subcommittee's findings and conclusions are set forth in this Report.

¹¹ See "Report to the Investigative Subcommittee In the Matter Regarding Representative Laura Richardson" Joseph Huntzinger, (June 7, 2010) (hereinafter "Huntzinger Report"). A copy of the Huntzinger Report can be found at Appendix B. Mr. Huntzinger has more than 18 years of experience in the residential mortgage industry. Huntzinger Report at 1. For the past 10 years, he has worked for the Indianapolis Neighborhood Housing Partnership, where he served first as the Director of Single Family Lending and more recently as the Vice President of Mortgage Lending. *Id.* Prior to that, he worked in various capacities at Gold Mortgage Group LLC and Banc One Mortgage Corporation. *Id.*

II. JURISDICTION OF THE INVESTIGATIVE SUBCOMMITTEE

Rule XI, clause 3(a)(2), of the Rules of the U.S. House of Representatives (House Rules), vests jurisdiction over the matters addressed in this Report with the Standards Committee. The Standards Committee may investigate any alleged violation by a Member, officer, or employee of the House of Representatives of the Code of Official Conduct or of any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee.¹² Sole and exclusive authority over the interpretation and enforcement of the Code of Official Conduct lies with the Standards Committee.¹³

The Standards Committee conducted an initial investigation in this matter pursuant to Standards Committee Rule 18(a), which authorizes the Standards Committee to consider any information in its possession indicating that a Member, officer, or employee may have committed a violation of the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of the duties or the discharge of the responsibilities of such individual. The Chair and Ranking Republican Member conducted the initial investigation pursuant to House Rule XI, clause 3(b)(1)(B)(ii), and Standards Committee Rule 18(a), which authorizes them to jointly gather additional information concerning such an alleged violation by a Member, officer, or employee unless and until an investigative subcommittee has been established.

The Standards Committee established an investigative subcommittee in this matter with jurisdiction over the matters addressed in this Report pursuant to Standards Committee Rules 10(a)(2) and 18, which authorize the Standards Committee to establish an investigative subcommittee by an affirmative vote of the Committee.

The Investigative Subcommittee conducted its investigation in this matter pursuant to Standards Committee Rule 19, which authorizes the Investigative Subcommittee to consider any evidence relevant to its inquiry and to require by subpoena or otherwise, the attendance and testimony of witnesses and the production of such books, records, correspondence, memoranda, papers, documents, and other items as it deems necessary to conduct the inquiry. Further,

¹² House Rule XI, clauses 3(a)(2) and 3(b).

¹³ House Rule X, clause 1(q); Standards Committee Rule 17A(a).

pursuant to Standards Committee Rule 6(h), the Committee authorized the Investigative Subcommittee to hire an independent mortgage consultant to advise the Investigative Subcommittee regarding commercially reasonable actions in the mortgage industry.

The Investigative Subcommittee prepared this report pursuant to Standards Committee Rule 19(g), which requires an investigative subcommittee, in a case in which the investigative subcommittee does not adopt a Statement of Alleged Violation, to transmit to the Standards Committee a report containing a summary of the information received during the inquiry, its conclusions and reasons therefore, and any appropriate recommendation.

III. FACTUAL FINDINGS

A. Summary of Factual Findings

In 1995, Representative Richardson purchased a house in San Pedro, California, in which Representative Richardson's mother has lived for several years. In 1999, Representative Richardson purchased a property in Long Beach, California, with her then-husband, which has been Representative Richardson's primary residence for several years. Representative Richardson and her then-husband finalized their divorce in 2005, and after the divorce, Representative Richardson was solely responsible for the mortgage on the Long Beach property. Representative Richardson has never collected any rent for either her San Pedro or Long Beach properties, which is consistent with the disclosures in the Financial Disclosure Statements she has filed.

Representative Richardson was elected to the California State Assembly in 2006. In 2007, Representative Richardson purchased a property in Sacramento, California, for the purpose of using the house when she was in Sacramento. Soon after Representative Richardson purchased the Sacramento property, Representative Juanita Millender-McDonald passed away, and Representative Richardson ran in a special election to replace Representative Millender-McDonald. Representative Richardson won the special election and was sworn in to the House of Representatives on September 4, 2007.

Representative Richardson used a mortgage broker in connection with obtaining a mortgage to purchase the Sacramento property. This mortgage broker, Charles Thomas, submitted numerous documents with Representative Richardson's loan application packet for the Sacramento property. Several of these documents indicated that Representative Richardson was receiving income from her San Pedro and Long Beach properties, which rental income was calculated into Representative Richardson's gross monthly income. Representative Richardson's loan application packet included two rental agreements for these properties which supported this income. The income from these rental agreements made it appear that Representative Richardson had more income than she actually did.

Representative Richardson ultimately obtained a loan for the Sacramento property from Washington Mutual.

Representative Richardson denied any knowledge that this false information was included with her mortgage application. Mr. Thomas told Investigative Subcommittee counsel that he placed the false information regarding Representative Richardson's supposed rental income on her mortgage application and that he forged the rental agreements. Mr. Thomas also said that he did not know whether Representative Richardson was aware of the submission of the false rental income information.

After reviewing Representative Richardson's mortgage application and facts surrounding it, the mortgage consultant hired by the Investigative Subcommittee concluded that Representative Richardson was likely not involved in the mortgage fraud related to her mortgage application. The mortgage consultant further concluded that if the facts in Representative Richardson's mortgage application had been accurate, her initial mortgage for the Sacramento property would have been commercially reasonable. However, the mortgage consultant also concluded that Representative Richardson likely would not have qualified for the mortgage on her Sacramento property without the fraudulent rental income information submitted with her mortgage application.

In late 2007, Representative Richardson fell behind on her mortgage payments for the Sacramento property and went into default. Washington Mutual then began foreclosure proceedings. After some delay, Representative Richardson contacted Washington Mutual and expressed interest in bringing the loan current. Representative Richardson told Washington Mutual that her financial situation had changed from the time when she went into default on the Sacramento property because she had experienced a gap in income due to changing jobs. Washington Mutual placed a hold on the foreclosure proceedings. After reviewing the facts surrounding Washington Mutual's decision to place a hold on the foreclosure sale of Representative Richardson's Sacramento property, the mortgage consultant hired by the Investigative Subcommittee concluded that Washington Mutual's decision was commercially reasonable.

Washington Mutual agreed with Representative Richardson that it would put the foreclosure sale on hold for 60 days, beginning on April 4, 2008, with the hold to expire on June 4, 2008. Due to operational errors by Washington Mutual, the hold was lifted on April 15, 2008.

This error resulted in a foreclosure sale of Representative Richardson's Sacramento home on May 7, 2008, with the property being sold to Red Rock Mortgage for \$388,000.01. Upon realizing this error, Washington Mutual decided to rescind the foreclosure sale. Due to the rescission, Washington Mutual had to refund Red Rock Mortgage all of its money. After rescinding the foreclosure sale, Red Rock Mortgage sued Washington Mutual, and ultimately Washington Mutual entered into an out-of-court settlement with Red Rock Mortgage for a payment of approximately \$100,000 in addition to returning the foreclosure sale amount. After reviewing the facts surrounding Washington Mutual's decision to rescind the foreclosure sale of Representative Richardson's Sacramento property, the mortgage consultant hired by the Investigative Subcommittee concluded that Washington Mutual's decision was commercially reasonable.

After Washington Mutual rescinded the foreclosure sale of Representative Richardson's Sacramento property, Washington Mutual and Representative Richardson worked on, and agreed to, a modification of Representative Richardson's loan. After reviewing the facts surrounding Washington Mutual's decision to offer a loan modification to Representative Richardson, the mortgage consultant hired by the Investigative Subcommittee concluded that the loan modification offered to Representative Richardson was commercially reasonable.

B. Representative Richardson

Representative Richardson served on the Long Beach City Council from 2000 to 2006.¹⁴ In 2006, Representative Richardson was elected to the California State Assembly.¹⁵ A few months after Representative Richardson was elected to the California State Assembly, then-U.S. Representative Juanita Millender-McDonald passed away.¹⁶ Representative Richardson ran in a special election to replace Representative Millender-McDonald.¹⁷ Representative Richardson

¹⁴ About Congresswoman Laura Richardson, <http://richardson.house.gov/about.shtml> (last visited June 10, 2010).

¹⁵ Interview Transcript of Representative Laura Richardson (hereinafter Richardson Int. Tr.) at 7.

¹⁶ *Id.* at 8.

¹⁷ *Id.*

won the special election and was sworn in to the House of Representatives on September 4, 2007.¹⁸

Representative Richardson currently owns at least three residential properties, and rents an apartment in the Washington, D.C., metropolitan area.¹⁹ In 1995, Representative Richardson purchased a property in San Pedro, California.²⁰ Representative Richardson's mother has lived in the San Pedro property for several years.²¹ In 1999, Representative Richardson purchased a property in Long Beach, California, with her then-husband.²² The Long Beach property has been Representative Richardson's primary residence for several years.²³ In 2007, Representative Richardson purchased a property in Sacramento, California.²⁴ Representative Richardson bought the house in Sacramento shortly after her election to the California State Assembly for the purpose of using the house when she was in Sacramento.²⁵

Representative Richardson and her then-husband separated in 2000, and finalized their divorce in 2005.²⁶ After the divorce, Representative Richardson was solely responsible for the mortgage on the Long Beach property.²⁷

Since her election to U.S. House of Representatives, Representative Richardson has also rented an apartment in the Washington, D.C., metropolitan area.²⁸ In 2008, her monthly rent was \$1,790.²⁹

¹⁸ *Id.*

¹⁹ *Id.* at 7-8; *see also* CSOC.RICH.007924 to CSOC.RICH.007926.

²⁰ Richardson Int. Tr. at 7.

²¹ *Id.*

²² *Id.*

²³ *Id.* at 10.

²⁴ *Id.* at 8.

²⁵ *Id.* Representative Richardson informed the Investigative Subcommittee that around November of 2009, she began renting her Sacramento property. *Id.* at 10.

²⁶ *Id.* at 7.

²⁷ *Id.*

²⁸ CSOC.RICH.007924-CSOC.RICH.007926. The documents designated with "CSOC.RICH" numbers constitute the documents collected by the Standards Committee and the Investigative Subcommittee in the course of the investigation. Pertinent portions of the documents collected by the Standards Committee and the Investigative Subcommittee can be found at Appendix A. The Investigative Subcommittee notes that certain personal

Representative Richardson filed the Financial Disclosure Statement for candidates and new employees with the House of Representatives on February 22, 2008.³⁰ Representative Richardson filed Financial Disclosure Statements for current Members with the House of Representatives on May 19, 2008,³¹ June 13, 2008,³² and May 15, 2009.³³ Representative Richardson did not disclose any rental income on any of these Financial Disclosure Statements, and she did not list any of her residential properties on the liabilities section of her Financial Disclosure Statements.³⁴ Pursuant to House rules related to financial disclosure requirements, Representative Richardson was not required to disclose these properties or associated liabilities so long as they were not being held for investment purposes and no rental income was being collected.³⁵ Furthermore, Representative Richardson told the Investigative Subcommittee that she has never collected any rent for either her San Pedro or Long Beach properties.³⁶ Finally, no one, other than Representative Richardson or her mother, has been listed on the utilities for either the San Pedro or Long Beach properties.³⁷

information, such as personal email addresses, direct-dial phone numbers, bank account numbers, and personal cell phone numbers have been redacted from the documents collected by the Standards Committee and Investigative Subcommittee. The Investigative Subcommittee has redacted this information based on privacy considerations, and because the information is irrelevant to any question at issue in this Report. The Investigative Subcommittee has not redacted contact information for Washington Mutual Bank as the bank is no longer in existence and its assets were subsequently purchased by JPMorgan Chase.

²⁹ CSOC.RICH.007926.

³⁰ CSOC.RICH.006450 to CSOC.RICH.006454.

³¹ CSOC.RICH.006445 to CSOC.RICH.006449.

³² CSOC.RICH.006455 to CSOC.RICH.006458.

³³ CSOC.RICH.006436 to CSOC.RICH.006444.

³⁴ CSOC.RICH.006436 to CSOC.RICH.006454. Representative Richardson has also never disclosed any gift in connection with any of her properties.

³⁵ See 5 U.S.C. app. 4, § 101 et seq.; House Rule XXVI; Instruction Guide for Completing Calendar Year 2008 Financial Disclosure Statement Form A at 10-11; 18-19.

³⁶ Richardson Int. Tr. at 11.

³⁷ See e.g., CSOC.RICH.009932 to CSOC.RICH.010129; CSOC.RICH.005849 to CSOC.RICH.005912; CSOC.RICH.009474 to CSOC.RICH.009492; CSOC.RICH.009409 to CSOC.RICH.009467.

C. Purchase of the Sacramento Property

1. Mortgage Broker

Representative Richardson used a mortgage broker to procure a loan to purchase her Sacramento property.³⁸ A mortgage broker is a mortgage industry professional that markets wholesale mortgage bankers' mortgage loans to potential borrowers.³⁹ Mortgage brokers receive and process mortgage loan applications, and then send the information to the wholesale mortgage bankers' underwriting departments for review.⁴⁰ A wholesale mortgage banker's underwriter makes the final decision to approve the mortgage loan application; to approve the application with conditions; or to reject the application.⁴¹

Representative Richardson's mortgage broker was Charles Thomas of Avenue Mortgage.⁴² Avenue Mortgage received a "Loan Origination Fee" of \$10,700 for Representative Richardson's loan.⁴³ Representative Richardson was referred to Mr. Thomas by another client.⁴⁴ Mr. Thomas told the Investigative Subcommittee that he was aware that Representative Richardson was an elected official when he started working with her.⁴⁵

2. Loan from Washington Mutual

Through Mr. Thomas, Representative Richardson received a loan from Washington Mutual to purchase her Sacramento property.⁴⁶ In 2007, Washington Mutual was one of the largest mortgage lenders in the United States.⁴⁷ Washington Mutual "had a large banking footprint in the West and many home loan offices around the country."⁴⁸ Washington Mutual

³⁸ Interview Transcript of Charles Thomas (hereinafter Thomas Int. Tr.) at 10-11.

³⁹ Huntzinger Report at 2.

⁴⁰ *Id.* at 3.

⁴¹ *Id.*

⁴² Thomas Int. Tr. at 11. Mr. Thomas worked as a loan officer at Avenue Mortgage for approximately three-and-one-half years beginning in late 2005. *Id.* at 4.

⁴³ CSOC.RICH.006330.

⁴⁴ Thomas Int. Tr. at 11; Richardson Int. Tr. at 12.

⁴⁵ Thomas Int. Tr. at 11.

⁴⁶ *Id.* at 12.

⁴⁷ Huntzinger Report at 5.

⁴⁸ *Id.*

was known in the mortgage industry as a lender that offered higher risk sub-prime and option Adjustable Rate Mortgage (ARM) loan products.⁴⁹ On September 26, 2008, in the largest single bank failure in United States history, Washington Mutual succumbed to the fallout from the subprime mortgage crisis, and was seized by its primary regulator, the Office of Thrift Supervision (OTS).⁵⁰ OTS appointed the Federal Deposit Insurance Corporation (FDIC) as the receiver for Washington Mutual.⁵¹ The FDIC in turn conducted a bidding process that led to the purchase of Washington Mutual by JPMorgan Chase.⁵²

Mr. Thomas told the Investigative Subcommittee that “[u]sually when we first structure a loan we try to decide which lender would be best for that borrower[’s] situation. So, in the process, we would determine this type of borrower, their situation would be more fitted for this type of lender for example.”⁵³ Mr. Thomas said that he selected Washington Mutual as the lender for Representative Richardson because the bank “was in a subprime marketplace. So most of the borrowers that were what we called subprime category borrowers or A minus borrowers or whatever you would like to coin them were then referred to lenders like Washington Mutual.”⁵⁴ Mr. Thomas said that Washington Mutual was “pretty aggressive. They were doing some things kind of aggressively relevant to what other lenders were offering.”⁵⁵ Mr. Thomas explained that Washington Mutual was “doing higher debt ratios and smaller down payments, no down payments, and things like that; and they would do that for people who had credit scores that were slightly marginal.”⁵⁶

The California housing market experienced rapid house price appreciation from 2002 to 2007, reaching its peak in early 2007.⁵⁷ In late 2006 and early 2007, homebuyers felt a sense of

⁴⁹ *Id.*; see also Transcript of Hearing of Permanent Subcommittee on Investigations, “Wall Street and the Financial Crisis: The Role of High Risk Home Loans,” April 13, 2010.

⁵⁰ See, http://money.cnn.com/2008/09/25/news/companies/JPM_WaMu/index.htm?postversion=2008092519 (last checked June 3, 2010).

⁵¹ *Id.*

⁵² *Id.*

⁵³ Thomas Int. Tr. at 7.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Huntzinger Report at 5 (*citing* Case-Shiller Home Price Indices).

urgency to purchase a home before home prices appreciated even higher.⁵⁸ However, many homebuyers in California were already priced out of the housing market due to the appreciation that had occurred since 2002.⁵⁹ Because fewer homebuyers could qualify for ordinary mortgages in many high cost markets, lenders began to use looser lending guidelines and began creating exotic mortgage products to increase the demand for mortgages.⁶⁰ During this time, lenders began offering mortgages with forty-year time frames, mortgages that allowed certain payments to be optional, mortgages that required low or no down payments, mortgages with adjustable interest rates, and “interest only” mortgages.⁶¹ The effect of these “exotic” products was to bring homebuyers, who were previously “priced out” of the market, back into the market in California because they could qualify for a mortgage.⁶²

Mr. Thomas told the Investigative Subcommittee that Representative Richardson “wanted a certain type of loan that she did not qualify for initially.”⁶³ Mr. Thomas explained that Representative Richardson “wanted, for lack of a better word, a Grade A, you know, vanilla Fannie Mae financing; and I think she had thought that that is what she would qualify for, but her credit score was not in that category.”⁶⁴ A credit report dated January 2, 2007, found in the Washington Mutual file for Representative Richardson indicated that the three major credit rating agencies reported credit scores of 575, 582, and 603 for Representative Richardson.⁶⁵ Mr. Thomas said that Representative Richardson “had a couple of mortgage lates I think as a result of a previous divorce[.]”⁶⁶ Mr. Thomas told the Investigative Subcommittee that Representative Richardson’s loan was “what we call a 2/28 loan. It is a 30-year term that is broken up into the first 2 years of the 30-year term being fixed, so the 2-year fixed rate loan. . . . After 2 years, the

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ Thomas Int. Tr. at 12.

⁶⁴ *Id.*

⁶⁵ CSOC.RICH.001881 to CSOC.RICH.001890.

⁶⁶ Thomas Int. Tr. at 12.

loan will adjust depending upon the type of index and margins that loan has.”⁶⁷ Washington Mutual categorized Representative Richardson’s loan as “Sub Prime- Conventional.”⁶⁸

3. *Submissions to Washington Mutual*

Representative Richardson, through her mortgage broker Mr. Thomas, submitted numerous documents with her mortgage application.⁶⁹ Mr. Thomas told the Investigative Subcommittee that borrowers provided all of the necessary documentation for a loan application to him as the broker, and that “copies will be fine to start the process[.]”⁷⁰ However, he stated that “the closing documents themselves were original documents. They required original signatures and things of that nature. But to start the process they could forward me their banks’ statements, their W-2s via fax or email.”⁷¹

Lenders consider several factors when reviewing loan applications.⁷² For example, lenders will often use a rate sheet, which shows the wholesale interest rates for each day.⁷³ Loans can fall into different categories depending on how much documentation the lender has when reviewing the loan.⁷⁴ When a loan is a “full document” loan, lenders will consider all the debt and income information provided by the borrower when determining whether the prospective borrower qualifies for the loan.⁷⁵ This is in contrast to a “stated document” loan, in which the borrower states their income on the application but does not provide proof of the income in the way of documents such as tax forms or paystubs.⁷⁶ “Stated document” loans usually require larger down payments, higher credit scores, and have higher interest rates than a

⁶⁷ *Id.* at 28.

⁶⁸ CSOC.RICH.002465; *see also*, Mathis Int. Tr. at 8.

⁶⁹ *See e.g.*, CSOC.RICH.001444 to CSOC.RICH.001462; CSOC.RICH.002083; CSOC.RICH.002088; CSOC.RICH.002153 to CSOC.RICH.002160.

⁷⁰ Thomas Int. Tr. at 9.

⁷¹ *Id.*

⁷² Huntzinger Report at 4.

⁷³ *Id.* The rate sheet that appears to have been used by Washington Mutual with respect to Representative Richardson’s loan application was document number CSOC.RICH.002096. *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.* Stated document loans may still require tax returns and bank statements. *Id.*

full document loan.⁷⁷ Representative Richardson's loan application appears to have been a "full document" loan.⁷⁸ This means that all the debt and income information provided by Representative Richardson was considered in qualifying for the loan.⁷⁹

In some cases a borrower may also submit a credit letter of explanation.⁸⁰ These are most typically used if a borrower has any issues in the borrower's credit history.⁸¹ In that case, the borrower may provide a credit letter of explanation to account for these issues.⁸²

Mr. Thomas told the Investigative Subcommittee that his communications with Representative Richardson were primarily over the phone.⁸³ Representative Richardson told the Investigative Subcommittee that she never actually met with Mr. Thomas in person.⁸⁴ Mr. Thomas said he did not remember if Representative Richardson reviewed any portion of her loan application before he sent it to Washington Mutual, but it was not unusual for an applicant to not review an application before it is sent to the lender.⁸⁵ Representative Richardson did not remember if she signed any draft of her mortgage application prior to closing.⁸⁶ Representative Richardson told the Investigative Subcommittee that she never granted Mr. Thomas authority to sign any document on her behalf.⁸⁷

Representative Richardson told the Investigative Subcommittee that she was "sworn in [to the California State Assembly] on December 4th," and that her "first day on the job of being a full-time elected official was January 3rd."⁸⁸ Representative Richardson said that "because my day was so busy the first day, I missed the first completing of the documents and signed on the

⁷⁷ *Id.*

⁷⁸ *Id.* (citing CSOC.RICH.002132).

⁷⁹ *Id.*

⁸⁰ *Id.* at 4-5.

⁸¹ *Id.*

⁸² *Id.* at 5.

⁸³ Thomas Int. Tr. at 12-13, and 27.

⁸⁴ *Id.* at 12.

⁸⁵ *Id.* at 14.

⁸⁶ Richardson Int. Tr. at 14.

⁸⁷ *Id.* at 15.

⁸⁸ *Id.* at 20.

following day. So it was pretty hectic, and unfortunately, I know I don't think I reviewed things as closely as I should have."⁸⁹

a. Employment Income Verification Letter

A one-page handwritten document entitled "Employment Income Verification Letter" was submitted with Representative Richardson's mortgage application.⁹⁰ On this document, Representative Richardson hand-wrote her salary as \$113,098.00.⁹¹ Representative Richardson told the Investigative Subcommittee that this was her salary in the California State Assembly.⁹² She also hand-wrote that she received a "Per Diem Tax Free" of \$36,450.00, "50% Tax Credit on Per Diem For [unknown word] My Evaluation" of \$10,935.00, and "Rent Credit for San Pedro Residence" of \$12,000.00.⁹³ Representative Richardson told the Investigative Subcommittee that she received a per diem from the California State Assembly, and she noted that she wrote "rent credit" not "rent income."⁹⁴ Representative Richardson explained to the Investigative Subcommittee that her "mother has a home in Gardenia. It was the hope that my mother, we were going to fix up her place and rent her place, and the money that she received from her place of her living in my place, then she would pay me out of that."⁹⁵ Representative Richardson said that her mother has "not yet" rented her Gardenia property.⁹⁶ At the bottom of the document, Representative Richardson hand-wrote that her "Stated Income" was \$172,483.⁹⁷

Mr. Thomas told the Investigative Subcommittee this "was a letter that was provided to me explaining the breakdown of her income."⁹⁸ Mr. Thomas said this letter was necessary "[b]ecause of how she was paid. She had her per diem and other expenses that were not normally on a payroll check. And I think the underwriter wanted that, something like that to

⁸⁹ *Id.*

⁹⁰ CSOC.RICH.002083; *see* Richardson Int. Tr. at 16.

⁹¹ CSOC.RICH.002083.

⁹² Richardson Int. Tr. at 17.

⁹³ CSOC.RICH.002083.

⁹⁴ Richardson Int. Tr. at 17.

⁹⁵ *Id.* at 18.

⁹⁶ *Id.*

⁹⁷ CSOC.RICH.002083.

⁹⁸ Thomas Int. Tr. at 18.

kind of explain her income.”⁹⁹ Mr. Thomas believed that the “Rent Credit for San Pedro Residence” was for a property that she was vacating.¹⁰⁰ Mr. Thomas said that they would have needed other backup documentation to support the “rent credit” such as a rental agreement.¹⁰¹

b. Credit Letter of Explanation

A credit letter of explanation was provided with Representative Richardson’s loan application.¹⁰² This letter appears to have been provided to explain certain late payments in Representative Richardson’s credit history.¹⁰³

c. Uniform Residential Loan Application

JPMorgan Chase and Representative Richardson provided the Investigative Subcommittee with numerous versions of the “Uniform Residential Loan Application” submitted to Washington Mutual for Representative Richardson’s Sacramento property.¹⁰⁴ Mr. Thomas told the Investigative Subcommittee “a lot of things would need to be corrected on an application that could cause it to be faxed back by the lender to be accepted.”¹⁰⁵ Mr. Thomas said that Representative Richardson would “[n]ot necessarily” have had to re-sign the application each time it was amended.¹⁰⁶

Mr. Thomas said that there would never be a reason for him to sign Representative Richardson’s name on her behalf.¹⁰⁷

Several versions of the applications appeared to be drafts that were sent to Washington Mutual by facsimile from someone at Avenue Mortgage between January 3, 2007, and January

⁹⁹ *Id.*

¹⁰⁰ *Id.* at 19.

¹⁰¹ *Id.* at 19.

¹⁰² CSOC.RICH.002088.

¹⁰³ Huntzinger Report at 4.

¹⁰⁴ CSOC.RICH.001444 to CSOC.RICH.001462.

¹⁰⁵ Thomas Int. Tr. at 17.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

8, 2007.¹⁰⁸ Three of the versions contained a signature purporting to be Representative Richardson,¹⁰⁹ and the others did not.¹¹⁰ Some of the pages contained the initials “LR” at the bottom,¹¹¹ and some did not.¹¹² The applications stated that the “Interviewer’s Name” was Charles Thomas.¹¹³ Representative Richardson confirmed that she signed and initialed the January 4, 2007, version of the application.¹¹⁴

Each version of the “Uniform Residential Loan Application” listed Representative Richardson’s San Pedro, California, and Long Beach, California, properties in the “Schedule of Real Estate Owned” section.¹¹⁵ The applications stated that Representative Richardson was paying a mortgage payment of \$2,474 for the San Pedro property and \$2,592 for the Long Beach property.¹¹⁶ The application also stated that Representative Richardson was receiving “Gross Rental Income” of \$2,000 for the San Pedro property and \$2,250 for the Long Beach property.¹¹⁷ Based on these mortgage payments and rental income numbers, the applications stated that Representative Richardson was receiving “Net Rental Income” of negative \$674 for the San Pedro property and negative \$567 for the Long Beach property.¹¹⁸ Mr. Thomas told the Investigative Subcommittee that he placed the information about this rental income on the

¹⁰⁸ CSOC.RICH.001444 to CSOC.RICH.001445; CSOC.RICH.001446 to CSOC.RICH.001449; CSOC.RICH.001451 to CSOC.RICH.001454; CSOC.RICH.001455 to CSOC.RICH.001458.

¹⁰⁹ CSOC.RICH.001444 to CSOC.RICH.001445; CSOC.RICH.001446 to CSOC.RICH.001449; CSOC.RICH.006338 to CSOC.RICH.006341.

¹¹⁰ CSOC.RICH.001451 to CSOC.RICH.001454; CSOC.RICH.001455 to CSOC.RICH.001458; CSOC.RICH.001459 to CSOC.RICH.001462.

¹¹¹ CSOC.RICH.001444 to CSOC.RICH.001448; CSOC.RICH.006338 to CSOC.RICH.006341.

¹¹² CSOC.RICH.001449; CSOC.RICH.001451 to CSOC.RICH.001462, CSOC.RICH.006341.

¹¹³ CSOC.RICH.001449; CSOC.RICH.001454; CSOC.RICH.001458; CSOC.RICH.001462; CSOC.RICH.006341. One version was missing the page on which the “Interviewer’s Name” entry appeared.

¹¹⁴ Richardson Int. Tr. at 21; CSOC.RICH.001446 to CSOC.RICH.001449.

¹¹⁵ CSOC.RICH.001448; CSOC.RICH.001453; CSOC.RICH.001457; CSOC.RICH.001461. One version was missing the page on which the “Schedule of Real Estate Owned” section appeared.

¹¹⁶ CSOC.RICH.001448; CSOC.RICH.001453; CSOC.RICH.001457; CSOC.RICH.001461; CSOC.RICH.006340.

¹¹⁷ *Id.*

¹¹⁸ *Id.*

applications and that Representative Richardson would have needed copies of rental applications to support her claim of rental income on the loan application.¹¹⁹

Representative Richardson said that she did not read the portion of her loan application indicating that she was receiving rental income for her San Pedro and Long Beach properties, but that the documents accurately stated her mortgage payments for her San Pedro and Long Beach residences.¹²⁰ Representative Richardson said that, if she had read that she was receiving rental income for these properties, she would have known this was incorrect.¹²¹ Representative Richardson said that she did not become aware that this information was included in her mortgage application until around the end of 2008, or the beginning of 2009, when her lawyer informed her.¹²²

d. Rental Agreements

Two documents were submitted to Washington Mutual as part of Representative Richardson's mortgage application purporting to be rental agreements for Representative Richardson's San Pedro (San Pedro Rental Agreement) and Long Beach (Long Beach Rental Agreement) properties.¹²³ The San Pedro Rental Agreement listed Representative Richardson as the landlord and Marjorie Washington and Deborah Washington as the tenants, and included purported signatures for all three people.¹²⁴ The San Pedro Rental Agreement stated that the agreement began on March 3, 2005.¹²⁵ The Long Beach Rental Agreement listed Representative Richardson as the landlord and Angela Parsons as the tenant, and included purported signatures for both people.¹²⁶ The Long Beach Rental Agreement stated that the rental agreement began on January 3, 2007.¹²⁷

¹¹⁹ Thomas Int. Tr. at 19.

¹²⁰ Richardson Int. Tr. at 22.

¹²¹ *Id.*

¹²² *Id.*

¹²³ CSOC.RICH.002153 to CSOC.RICH.002156; CSOC.RICH.002157 to CSOC.RICH.002160.

¹²⁴ CSOC.RICH.002154 to CSOC.RICH.002156.

¹²⁵ CSOC.RICH.002154.

¹²⁶ CSOC.RICH.002157 to CSOC.RICH.002160.

¹²⁷ CSOC.RICH.002157.

Representative Richardson told the Investigative Subcommittee that, at the time her loan application was submitted to Washington Mutual, she had no knowledge that these rental agreements were created or that they were submitted with her application.¹²⁸ Representative Richardson further stated that the handwriting on the rental agreements does not match her own.¹²⁹

Mr. Thomas admitted to the Investigative Subcommittee that he created the rental agreements and submitted them to Washington Mutual.¹³⁰ During Mr. Thomas' interview, the following exchange occurred:

Q Do you recall whether Representative Richardson actually provided rental agreements for the two properties?

A No, I don't recall that, sir.

Q We have here two copies -- or a copy of two rental agreements for each property. Does that comport -- is it possible that you provided these rental agreements?

A I am sorry, sir.

Q Is it possible that you provided rental agreements? We have documents that appear to be rental agreements. Is that a possibility?

A Did she provide those?

Q Yes.

A It is possible, yes.

Q Is it possible that anybody else provided them?

A Not -- maybe forwarded to the borrower, but no one else in my office would have provided any, no.

Q Say that again. You had forms that you would forward to a borrower?

A There was a -- take a rental agreement, for example. Usually, they -- borrowers don't carry rental agreements with them. So if they didn't have a rental agreement available, we would forward one to them.

Q In what circumstance would you forward a rental agreement to a borrower?

A You know, it depends. If they didn't have -- they had had the information, but they didn't have the document, for example. It would just depend on the situation.

¹²⁸ Richardson Int. Tr. at 23-25.

¹²⁹ *Id.* at 24.

¹³⁰ Thomas Int. Tr. at 21-24.

Q So if they had an informal agreement where they were renting and if they didn't have adequate documents supporting it, you would send them out a form rental agreement?

A Right. They would fill it out and send it back.

Q Would you ever fill it out?

A Yes. I would fill it out from time to time, yes.

Q Do you know if you sent Representative Richardson this form agreement?

A I am trying to remember. I believe so. I believe I did.

...

Q So, if you sent this -- if you sent the form agreement and maybe even filled it out, would you have -- I assume you sent it to Representative Richardson for her to sign; is that right?

A Yes, sir.

Q And, again, she was the only person you dealt with; is that right? You didn't deal with any assistant of hers or some other staff person?

A No, she was the only person I dealt with.

Q So do you recall receiving these from her signed?

A I do not remember.

Q But you or somebody at your office didn't sign them, did you?

A I signed the agreement. I told the FBI agent that also that talked to me about it.

Q Say that again.

A I had also told the FBI agent that I talked with that I had signed the agreement.

Q You signed the agreement?

A Yes, sir.

Q Did you do all the signatures, hers and the other person?

A The other person?

Q Well, there is a landlord and a tenant signature. Did you sign -- did you put those signatures in?

A Yes, sir.

...

Q Why did you do that?

A As I told the agent at that time, I had no -- I just feel -- a stupid thing on my part to do, basically, obviously. I don't normally do that. It was a mistake that I made, and I told the FBI agent that already, also.

Q Did Representative Richardson know that you signed these?

A To be honest with you, I am not exactly sure.

...

Q Why would you be signing rental agreements in this case? How would that help or hurt her in this case?

A I don't think it helped or hurt her either way. Again, once you looked everything, she had enough income already to qualify. So in this case it wasn't anything to aid her or anything like that. It was just something stupid that I had done.¹³¹

Mr. Thomas said that he created the rental agreements after he received the Employment Income Verification letter from Representative Richardson and that the amount of rent in the rental agreement for the San Pedro property "was the amount indicated on the handwritten form that she would use particularly as part of her compensation, as a credit for that property taken when she moved to Sacramento."¹³² Mr. Thomas said that the rent in the rental agreement for the Long Beach property "could have been just regular rents from the neighborhood or whatever the case may have been."¹³³

The claim of rental income on Representative Richardson's mortgage application that was supported by these rental agreements made it appear that Representative Richardson had more income than she actually did.¹³⁴

On March 30, 2010, Daniel Shallman, an attorney representing Representative Richardson, sent a letter to Dorothy C. Kim, an attorney at the United States Attorney's Office for the Central District of California.¹³⁵ Mr. Shallman's letter stated:

As we discussed, I write to confirm the decision of the United States Attorney's Office for the Central District of California to decline criminal prosecution of Congresswoman Laura Richardson in connection with her application for a mortgage in January 2007 to purchase a property located at 3622 W. Curtis Drive, Sacramento, California. You advised me that, after having investigated the circumstances surrounding Ms. Richardson's application for a mortgage on this property from Washington Mutual Bank, the government would not seek criminal charges against Ms. Richardson related to this mortgage application.¹³⁶

¹³¹ *Id.*

¹³² *Id.* at 25.

¹³³ *Id.* at 34.

¹³⁴ Huntzinger Report at 2.

¹³⁵ Letter from Daniel Shallman to Dorothy C. Kim, March 30, 2010.

¹³⁶ *Id.*

Ms. Kim replied to Mr. Shallman's letter via email on March 31, 2010, stating, "[s]orry for the delay. I agree with your letter."¹³⁷

4. *Fraud Prevention*

The Investigative Subcommittee did not find any evidence that Washington Mutual was aware that Representative Richardson's loan application contained fraudulent information.¹³⁸ Mr. Huntzinger, the Investigative Subcommittee's independent mortgage consultant, explained that, as part of the underwriting approval process, the wholesale mortgage banker usually conducts quality control reviews and fraud prevention reviews.¹³⁹ Banks use various tools to conduct quality control reviews and prevent fraud.¹⁴⁰ For example, banks use automated valuation models (AVMs), which are automated reports that can provide property valuation by using mathematical modeling combined with databases.¹⁴¹ Most AVMs calculate a property's value at a specific point in time.¹⁴² Banks also use Social Security number verifications to verify that the Social Security number is valid, not stolen, and belongs to the same person who applied for the mortgage.¹⁴³

Underwriters are also trained to assess the risk of a loan and in fraud prevention techniques.¹⁴⁴ They look for red flags that represent fraud risk and review automated fraud prevention reports.¹⁴⁵ One fraud prevention technique underwriters use is to have the borrower sign a 4502T form when the borrower applies for the loan.¹⁴⁶ This form is used by the lender to request transcripts of the federal income tax returns the borrower filed with the Internal Revenue

¹³⁷ Email from Dorothy C. Kim to Daniel Shallman, March 31, 2010.

¹³⁸ Washington Mutual did not even raise any questions about Representative Richardson renting a property in Long Beach. Huntzinger Report at 4. It is standard for an elected official to live in the district in which they are elected, and thus a rental agreement for that property should have raised a red flag that the agreement was potentially fraudulent. *Id.*

¹³⁹ *Id.* at 3.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

Service (IRS).¹⁴⁷ Once the transcripts are received from the IRS, they are reviewed against copies of the federal income tax returns the borrower provided.¹⁴⁸ If the income does not match, this discrepancy would be a red flag of possible fraud.¹⁴⁹

Some banks have set up special fraud prevention departments that work parallel to the underwriting department as the mortgage loan moves through the underwriting process.¹⁵⁰ These specialized departments are highly trained in fraud prevention techniques and are usually better at identifying fraud than underwriting departments.¹⁵¹

Banks also have post closing departments that conduct post closing reviews once the loan is closed to ensure all necessary documents are in the closed loan file and completed to meet secondary market or portfolio delivery.¹⁵²

5. *Washington Mutual's Analysis of the Loan Application*

Washington Mutual used numerous analysis tools when conducting its initial analysis of Representative Richardson's loan application.¹⁵³ When analyzing Representative Richardson's mortgage application, Washington Mutual listed Representative Richardson's monthly income as \$12,462.33, and noted that the income was "stated."¹⁵⁴ Washington Mutual also recorded Representative Richardson as having "-1,242.00" in "Net Rental Income."¹⁵⁵ When taking into account this "Net Rental Income" Washington Mutual reduced Representative Richardson's "Monthly Gross Income" to \$11,220.00.¹⁵⁶

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² *Id.* at 4.

¹⁵³ *See, e.g.*, CSOC.RICH.001881 to CSOC.RICH.001890; CSOC.RICH.002022 to CSOC.RICH.002023; CSOC.RICH.002203 to CSOC.RICH.002210.

¹⁵⁴ CSOC.RICH.002022.

¹⁵⁵ CSOC.RICH.002023. The income was "negative" because Representative Richardson's stated rental income for each property was less Representative Richardson's mortgage payments for the properties.

¹⁵⁶ *Id.*

On January 2, 2007, Washington Mutual ordered a credit report for Representative Richardson.¹⁵⁷ The credit report listed four addresses for Representative Richardson.¹⁵⁸ The most recent addresses were for Representative Richardson's Long Beach home and her San Pedro home.¹⁵⁹ The version of the credit report provided to the Investigative Subcommittee by JPMorgan Chase had the word "Rental" handwritten across the addresses section of the credit report.¹⁶⁰

The "Uniform Underwriting and Transmittal Summary" used by Washington Mutual in analyzing the loan for Representative Richardson's Sacramento property indicated Representative Richardson's "Base Income" was \$9,424.83 and she had "Other Income" of \$3,037.50.¹⁶¹ The form also indicated that Representative Richardson's "First Mortgage P&I" was \$4,498.57, and that the hazard insurance for the property was \$158 and the taxes were \$556.¹⁶² Thus, the form showed that Representative Richardson's "Total Primary Housing Expenses" were \$5,210.57.¹⁶³ The form also indicated that Representative Richardson's "Other Obligations" included "Other Property" of \$5,066 and "All Other Monthly Payments" of \$5,244.¹⁶⁴

The "Underwriting Worksheet Summary" used by Washington Mutual in analyzing the loan for Representative Richardson's Sacramento property indicated the "Property Usage" of Representative Richardson's Sacramento property was "Primary Residence."¹⁶⁵ The document further stated that Representative Richardson's loan was a "2 Year ARM (2/28 and 2/38)" with an initial interest rate of 8.8%¹⁶⁶ The document further stated that the sales price for and

¹⁵⁷ CSOC.RICH.001881 to CSOC.RICH.001890.

¹⁵⁸ CSOC.RICH.001885.

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ CSOC.RICH.002203.

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ CSOC.RICH.002204.

¹⁶⁶ *Id.*

appraised value of Representative Richardson's Sacramento property was \$535,000, which was also the loan amount.¹⁶⁷

The "Underwriter Decision Summary" used by Washington Mutual in analyzing the loan for Representative Richardson's Sacramento property stated in the "Credit Comments" section that "Borrower has 2 rental properties, 1 paid aa and WFB mtg 2x30 for A- grade. Some derog in consumer -- using 2 derog accts in d/r, also older derog. AKA's addressed."¹⁶⁸ The document further stated that Representative Richardson had "Net Rental Income" of "-1,242."¹⁶⁹ The document also stated that the "Analysis Type" was "STATED."¹⁷⁰ The document indicated that the "Loan-to-Value Ratio" for the property was 100%.¹⁷¹

The "Underwriting or Rate Exception" form used by Washington Mutual for the loan on Representative Richardson's Sacramento property included a "Description of Exception Requested" section, which stated "LTV exception max 95% Requested 100%."¹⁷²

The "Underwriting Approval Sheet" used by Washington Mutual for the loan on Representative Richardson's Sacramento property stated that the loan was not on "Stated Income."¹⁷³ The document also stated that Representative Richardson had "Current Rental agreements on both Vernon and Parker properties."¹⁷⁴

6. Conclusions Regarding the Loan Application

The Investigative Subcommittee asked Mr. Huntzinger to provide his professional opinions regarding the facts surrounding Representative Richardson's loan application. Mr. Huntzinger first provided the following explanation to the Investigative Subcommittee:

¹⁶⁷ *Id.*

¹⁶⁸ CSOC.RICH.002206

¹⁶⁹ CSOC.RICH.002207.

¹⁷⁰ *Id.*

¹⁷¹ *Id.*

¹⁷² CSOC.RICH.002209.

¹⁷³ CSOC.RICH.002210.

¹⁷⁴ *Id.*

Knowingly providing false information on a mortgage application usually is mortgage fraud. Falsifying rental agreements and sending them to a lender is also mortgage fraud. It is thus probable that someone committed mortgage fraud when submitting Representative Richardson's loan application. There are two categories of mortgage fraud: (1) fraud for profit and (2) fraud for housing. Fraud for profit is usually made by loan originators and sellers of real estate. The motivation is to profit from the loan fees for originators and the proceeds from the sale of the home for sellers of real estate. Fraud for housing is usually committed by homebuyers to qualify for a mortgage so they can purchase the home.¹⁷⁵

Mr. Huntzinger then reported the following conclusions to the Investigative Subcommittee:

Based on my review of the documents and testimony provided to me by the Investigative Subcommittee, this case is probably one of fraud for profit. Representative Richardson's mortgage broker had a motivation to close this loan because the loan broker fee was \$10,700.00. Also, Representative Richardson's mortgage broker, the originator in this case, stated in his interview that he provided fake rental agreements and signed them. (Interview of Charles Thomas, at 23)

Additionally, the handwriting of the signature on the credit letter of explanation included with Representative Richardson's application appears to have the same handwriting as the fake rental agreements and appears to have been executed on the same date. (CSOC.RICH.002088) Credit letters of explanation may either be signed by the borrower or signed by the mortgage broker attesting to what information was provided. It is unusual that Representative Richardson's mortgage broker would have signed Representative Richardson's name to the credit letter of explanation when the mortgage broker attested to the credit letter of explanation. This may indicate that Representative Richardson was not aware of, and did not participate in the drafting of, the documents submitted with her loan application.

The standard mortgage process for a letter of explanation is to have the borrower write the letter, sign it and give the original letter to the lender. For sake of time and ease it is common for the loan processor to have a verbal conversation with the borrower, type up the letter with the explanations from the conversation and then the

¹⁷⁵ Huntzinger Report at 5.

loan processor certifies the time, date of the conversation, accuracy of the information and signs the letter. These are called processor certification letter of explanation. Since this was not done it raises a red flag that likely the lender wanted to create the credit of explanation without the borrower's knowledge. This is another reason it is probable to be fraud for profit rather than fraud for housing.

Based on my review of the documents and testimony provided to me by the Investigative Subcommittee, it is my professional opinion that Representative Richardson would not have qualified for the loan on her Sacramento property without the fraudulent information in her loan application. However, if the income information used by the Washington Mutual underwriters when reviewing Representative Richardson's loan application had been accurate, Representative Richardson's original loan on the Sacramento property would have been commercially reasonable because it was within the range of terms provided to similarly situated borrowers at the time Washington Mutual approved Representative Richardson's loan application.¹⁷⁶

D. Default on the Sacramento Property

1. Failure to Make Payments

In the second half of 2007, Representative Richardson failed to make several payments on the mortgage for her Sacramento property.¹⁷⁷ Representative Richardson told the Investigative Subcommittee that when she became a Member of the U.S. House of Representatives, she "had three mortgages, and [she] was reeling from a costly and bitter divorce."¹⁷⁸ She further stated that she "had to relocate again, this time to Washington, D.C."¹⁷⁹ She also had to "hire staff, find a place to live here as well[.]"¹⁸⁰ She explained that during this time she "fell seriously behind in [her] mortgage payments."¹⁸¹

Mr. Huntzinger, the mortgage industry consultant hired by the Investigative Subcommittee, explained that when a borrower fails to make a payment on the borrower's

¹⁷⁶ *Id.* at 5-7.

¹⁷⁷ Richardson Int. Tr. at 8.

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

¹⁸¹ *Id.*

mortgage, the borrower is initially considered delinquent.¹⁸² However, once a borrower is 90 to 120 days past due on the borrower's mortgage, the loan is no longer considered delinquent but rather it is in default. Mr. Huntzinger stated that it was "common in the mortgage industry to file foreclosure proceedings on a borrower who is 90 to 120 days past due on their mortgage."¹⁸³ The lender begins the process by filing a public notice of a default, at which point the loan is deemed to be in "a pre-foreclosure status[.]"¹⁸⁴ According to Mr. Huntzinger:

If a loan is in a pre-foreclosure status, the following outcomes may result: (1) The borrower may get the loan reinstated by paying the defaulted amount during a statutory grace period. (2) The borrower may sell the home to a third party during the statutory grace period and pay off the loan. (3) A third party may buy the house at a public auction at the end of the pre-foreclosure period. (4) The lender may take ownership of the property with the intent to sell the property.¹⁸⁵

Mr. Huntzinger explained to the Investigative Subcommittee that the lender can take ownership either through "an agreement with the borrower such as a deed in lieu of foreclosure or by bidding at a public auction."¹⁸⁶ Mr. Huntzinger further explained that some states have redemption periods after the foreclosure that allow the borrower time to redeem the house.¹⁸⁷

According to a Washington Mutual Foreclosure Status Report generated on December 13, 2007, Representative Richardson defaulted on five payments of \$4,227.98 from August 2007 through December 2007.¹⁸⁸ Representative Richardson also incurred four late charges of \$253.68 for August 2007 through November 2007, and \$1,171.00 in fees, costs, and expenses associated with the foreclosure.¹⁸⁹ Washington Mutual issued a Notice of Default for Representative Richardson's Sacramento property on December 13, 2007.¹⁹⁰ The Notice of

¹⁸² *Id.* at 7.

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ *Id.* at 7-8.

¹⁸⁶ *Id.* at 8.

¹⁸⁷ *Id.*

¹⁸⁸ CSOC.RICH.002465.

¹⁸⁹ *Id.*

¹⁹⁰ CSOC.RICH.002463 to CSOC.RICH.002464.

Default stated that Representative Richardson owed \$18,356.40 in “past due payments plus permitted costs and expenses.”¹⁹¹

2. *Initial Attempt to Modify Loan*

Representative Richardson told the Investigative Subcommittee that “[o]ver the holidays in late 2007 and into early 2008, I realized that I had to get organized, clearly. I sought loan modifications, including on the Sacramento property[.]”¹⁹² Representative Richardson said that when she contacted Washington Mutual, “they told me I had to submit my information again, because what was different now from before when I originally got the loan was now I was here working in Congress. So I was no longer in the State Assembly. So I had to submit all new information.”¹⁹³

Mr. Huntzinger explained to the Investigative Subcommittee that it is not uncommon for loss mitigation efforts to occur from the time a borrower becomes delinquent on the loan to the day of public auction of the property.¹⁹⁴ Loss mitigation is the process by which a lender will work with a borrower who is behind on the borrower’s mortgage payments.¹⁹⁵ The goal is to reduce the loss to the lender; so lenders will consider the effects to the bottom line with a loss mitigation option versus going through with foreclosure.¹⁹⁶ Mr. Huntzinger explained that “Loss Mitigation work outs include special forbearance, loan modifications, extensions of time, deed in lieu and short sales.”¹⁹⁷

When working on loss mitigation with a borrower, “lenders will look at the underlying reasons behind the delinquency or default to determine if this issue is behind the borrower and if the loan can be put back into a performing status.”¹⁹⁸ In most cases, “common reasons for

¹⁹¹ CSOC.RICH.002463.

¹⁹² Richardson Int. Tr. at 8.

¹⁹³ *Id.* at 26.

¹⁹⁴ Huntzinger Report at 8.

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*

defaults are loss of income (job loss, income reduced, divorce and death) and health issues.”¹⁹⁹ However, Mr. Huntzinger said that, “[m]ore recent issues include borrowers defaulting due to the decline in property values putting them underwater on the mortgage. This tends to be a choice issue versus an ability to pay issue.”²⁰⁰

Ann Thorn, then-First Vice President, National Asset Recovery Manager at Washington Mutual, told the Investigative Subcommittee that Washington Mutual sent “reinstatement figures . . . to [Representative Richardson] prior to the foreclosure sale – it was, you know, 60 days prior to the foreclosure sale – that she could reinstate; or if she – or that we could qualify her for a modification, but that she had to qualify for a modification.”²⁰¹ Ms. Thorn explained that a “‘reinstatement’ is the lump sum that is due to bring the account to a current status of all of the monthly payments. ‘Modification’ is modifying the lump sum that is due to bring the account to a current status of all of the monthly payments.”²⁰² Ms. Thorn said that “if the borrower can reinstate the loan, we certainly would like to have that lump sum of money, but if they don’t, then we go through – again, we go through the financials, go through those and get the information, and see if a modification or some type of other workout is appropriate for the financials.”²⁰³

Allison Dolan, then an Executive Response Team representative in the default area for Washington Mutual, told the Investigative Subcommittee that sometimes during a loan modification process, Washington Mutual would lower the interest rate on a loan.²⁰⁴ Ms. Dolan said that the “interest rate on a loan could be lowered for either a period of 5 years or for the life of the loan if it was an extreme hardship case where the customer would never be able to recover from it.”²⁰⁵

¹⁹⁹ *Id.*

²⁰⁰ *Id.*

²⁰¹ Interview Transcript of Ann Thorn (hereinafter Thorn Int. Tr.) at 21.

²⁰² *Id.*

²⁰³ *Id.* at 21-22.

²⁰⁴ Interview Transcript of Allison Dolan (hereinafter Dolan Int. Tr.) at 24.

²⁰⁵ *Id.*

Julie Mathis, then-Vice President, Department Manager Home Preservation and part of Washington Mutual's Loss Mitigation Department,²⁰⁶ told the Investigative Subcommittee that the Loss Mitigation Department "helps borrowers avoid foreclosure."²⁰⁷ Ms. Mathis explained that borrowers:

don't have to be in foreclosure; they can just be 1 or 2 months delinquent. But we try to help people avoid losing their homes. And we try to catch them as early as we can with a loan modification to bring the loan current, if they can afford that, or, if they can't, to do a short sale of the property, to be able to sell it for the market value rather than what they owe.²⁰⁸

Ms. Mathis told the Investigative Subcommittee that, at the time of Representative Richardson's loan modification:

We used the Borrower Assistance Form in conjunction with a credit report. The credit report was only being used to validate the debt that was on the Borrower Assistance Form. So we wanted to make sure that the debt they listed included everything so that, if we were able to approve a mod, they would be able to pay their mortgage and all their other bills.

So that information is put into a decisioning tool that makes that modification decision. It's not a judgment; it's not an independent decision by anyone. It's data input into a tool that provides the result.²⁰⁹

Ms. Mathis stated that there is no human discretion in the "decisioning tool."²¹⁰ Ms. Mathis stated that the tool determines the terms of the loan, such as the interest rate and duration of the loan.²¹¹ Ms. Mathis said that "[t]hose terms should come from our tool. And they're provided on a modification worksheet that goes to our fulfillment area, who generate the

²⁰⁶ Interview Transcript of Julie Mathis (hereinafter Mathis Int. Tr.) at 5.

²⁰⁷ *Id.* at 6.

²⁰⁸ *Id.*

²⁰⁹ *Id.* at 25-26. Ms. Mathis further explained that "[t]he tool that we use to make decision modifications is an Excel-based program." *Id.* at 28.

²¹⁰ *Id.* at 35. JPMorgan was not able to provide the Investigative Subcommittee with the version of this "decisioning tool" used for Representative Richardson's loan modification.

²¹¹ *Id.* at 40.

document.”²¹² Ms. Mathis told the Investigative Subcommittee that Washington Mutual did not consider the borrower’s previous history of payments on the loan when determining whether to enter into a loan modification agreement.²¹³

Ms. Mathis said that during the time of Representative Richardson’s loan modification, Washington Mutual did not require borrowers to submit documentation to support their claims of income, living expenses, and debt.²¹⁴ Ms. Mathis said that when she started working in Loss Mitigation in approximately 1996, Washington Mutual required backup documentation for this information.²¹⁵ However, she stated that, “When we began servicing subprime mortgages, we did not require documentation.”²¹⁶ Ms. Mathis said that she could not “recall when Fannie Mae and Freddie Mac stopped requiring [backup documentation] as well. It was right about the same time that both investors decided that we didn’t have to validate income.”²¹⁷

Ms. Mathis stated:

the decision was made that a lot of these mortgages were originated on stated income. So, the borrower obtained the loan without providing any documentation. So the decision was made at a senior – much more senior to me level that, in order to review for loss mitigation assistance, we weren’t going to require the documentation either.²¹⁸

Mr. Huntzinger told the Investigative Subcommittee that while it was “not ‘best practices,’” for Washington Mutual to not consider any backup documentation during the loan modification process, “given the state of the California mortgage market in the spring of 2008, Washington Mutual was likely overwhelmed by the number of loan modification requests it was

²¹² *Id.*

²¹³ *Id.* at 41.

²¹⁴ *Id.* Tr. at 8; *see also id.* at 25 (“Just as a practice, across the board, we didn’t require it.”).

²¹⁵ *Id.* at 8.

²¹⁶ *Id.*

²¹⁷ *Id.* at 8-9. Ms. Mathis said that JPMorgan does require backup documentation for some types of loan modifications now. *Id.* at 9. For example, under the Home Affordable Mortgage Program (HMP), run through the Federal Housing Administration (FHA), JPMorgan would require documentation “upon final modification.” *Id.* at 9. However, if a borrower does not “qualify for the HMP modification, then if it’s a Fannie or Freddie, if you’ve never had a modification before, then we still do that on stated income.” *Id.* at 9.

²¹⁸ *Id.* at 26.

receiving, and thus it is not surprising that Washington Mutual would not require such backup documentation.”²¹⁹

Washington Mutual’s “process notes” for Representative Richardson’s Sacramento property state that on February 5, 2008, “LOSS MIT FINANCIAL PACKAGE SETUP.”²²⁰ The “process notes” further state that on February 6, 2008, “FILE TO NEGOTIATOR.”²²¹ The “process notes” state that on March 14, 2008, “FILE CLOSED DUE TO INSUFFICIENT INCOME MAILED DENIAL LETTER.”²²² The March 14, 2008, process notes entry further states: “INCOME: \$3801.20 EXPENSE: \$5980.98.”²²³ Ms. Dolan told the Investigative Subcommittee, “[t]he best of my knowledge is that it looks like this was a response to a loan modification request, and that because they didn’t have income to prove it or show whatever, they did send out the letter closing out the loan modification request.”²²⁴

Washington Mutual scheduled the foreclosure sale of Representative Richardson’s Sacramento property for April 7, 2008.²²⁵ On April 1, 2008, Washington Mutual issued a \$388,000.00 bid for the foreclosure sale of Representative Richardson’s Sacramento property.²²⁶

3. *Contact with Washington Mutual’s Government Affairs Office*

After Washington Mutual rejected Representative Richardson’s initial attempt to have her loan modified, Representative Richardson continued to reach out to Washington Mutual in an attempt to avoid foreclosure.²²⁷ Representative Richardson told the Investigative Subcommittee that she “had made repeated calls to the 1-800 number, been put on hold, couldn’t get an answer from anyone. I knew one person back from when I was in Sacramento, and I asked for a live

²¹⁹ Huntzinger Report at 12.

²²⁰ CSOC.RICH.002314.

²²¹ *Id.*

²²² *Id.*

²²³ *Id.*

²²⁴ Dolan Int. Tr. at 32-33.

²²⁵ CSOC.RICH.002325.

²²⁶ *Id.*

²²⁷ Richardson Int. Tr. at 30.

person that I could talk to.’²²⁸ Representative Richardson did not know the person’s name, but recalled that “[s]he was in government affairs, community affairs with Washington Mutual.”²²⁹

Jan Owen, then-the First Vice President, State and Local Government and Industry Relations Manager for Washington Mutual, told the Investigative Subcommittee that she “received a call from the congresswoman, and she asked that Washington Mutual look at assisting her, that she had some problems and she was looking to get her problems fixed.”²³⁰ Ms. Owen said that she understood Representative Richardson “had missed some payments and had had some difficulties making these payments.”²³¹ Ms. Owen said that Representative Richardson “was looking for some guidance and some assistance for a loan modification.”²³²

Ms. Owen explained that after receiving a call from Representative Richardson, Ms. Owen “sent it off to our executive response team, which was a normal procedure.”²³³ Ms. Owen said that she “was getting a lot of calls from customers” in early April of 2008.²³⁴ Ms. Owen said:

I would receive calls from constituents – excuse me, from customers, and if they came in on my lines, I looked to the executive response team to work on the files. I was the dispatch operator. If they got me, then I would send it off to the executive response team.²³⁵

Ms. Owen told the Investigative Subcommittee that the calls she was receiving during this time were “not necessarily” from elected representatives or other government officials.²³⁶ She said, “some customers would have gotten my name from other customers. They would have

²²⁸ *Id.*

²²⁹ *Id.*

²³⁰ Interview Transcript of Jan Owen (hereinafter Owen Int. Tr.) at 9.

²³¹ *Id.*

²³² *Id.*

²³³ *Id.*

²³⁴ *Id.* at 10.

²³⁵ *Id.*

²³⁶ *Id.* at 10-11.

gotten it from regulatory agencies, from State and local elected officials and their staffs, as well as from some congressional offices.”²³⁷

Ms. Owen told the Investigative Subcommittee that Washington Mutual “had many high-profile people that we were working with; Congresswoman Richardson was one of them.”²³⁸ Ms. Owen explained that Washington Mutual was “concerned over the reputational risk of Washington Mutual, and we were very concerned – at this point, we were doing crisis management.”²³⁹ Ms. Owen said that Washington Mutual was “getting so many requests for loan modifications. We had staffing issues. And we were very concerned over any kind of bad press that would look poorly on Washington Mutual.”²⁴⁰ However, Ms. Owen said she did not believe Washington Mutual had any policy in place for how to treat high-profile customers.²⁴¹

Ms. Owen sent an email to a general email distribution list for Washington Mutual’s Executive Response Team and to Kimberly Smith, then-Department Manager, Community Outreach, Homeownership Preservation Team, on April 3, 2008, at 10:50 a.m.²⁴² In that email, Ms. Owen stated that Representative Richardson:

Has called. She is attempting to reinstate her loan as she indicates she has the money and would like to stay with the payment plan she had before she had her problems. I understand from her that her problems began when she starting [sic] running for Congress - once she had just won the state assembly seat. The Congressional district she represents is San Pedro and Long Beach, CA. She believes there will be a foreclosure sale on the above referenced property on April 7, 2008. She wants to keep the house and again has indicated she has the \$\$ to pay the arrears and to pay this loan.

This one is sensitive.²⁴³

²³⁷ *Id.* at 11.

²³⁸ *Id.* at 12.

²³⁹ *Id.*

²⁴⁰ *Id.*

²⁴¹ *Id.*

²⁴² CSOC.RICH.002603.

²⁴³ *Id.*; see also CSOC.RICH.002272.

4. *The Executive Response Team*

Rosalva Alvarez, then a Customer Relations Manager at Washington Mutual and part of the intake team for Washington Mutual's Executive Response Team, forwarded Ms. Owen's April 3, 2008, email to a general Executive Response Team distribution list, with copies to two employees in the Executive Response Team, including Tasha Siedzik, then a Loan Servicing Department Manager for the Executive Response Team, on April 3, 2008, at 1:25 p.m.²⁴⁴ In that email, Ms. Alvarez stated:

Hello,

I am hoping that you can assist me with the Congressional complaint. I have called and left a message on her cell phone for her to call me. The situation as Jan describes it below is that the customer is attempting to bring the loan current. She is looking to obtain a reinstatement figure and prevent foreclosure. Can you please assist me with that?

Thanks.²⁴⁵

Ms. Mathis, part of Washington Mutual's Loss Mitigation Department, said that the Executive Response Team is separate from the Loss Mitigation Department,²⁴⁶ and that the Executive Response Team "handle[d] escalated issues."²⁴⁷ Ms. Mathis said that escalated issues include, "[i]f it comes in, a congressperson complaint from one of their constituents, a borrower that's contacted the media, a high profile borrower, those types of situations. Or if the borrower has retained counsel, if they've retained an attorney."²⁴⁸ Ms. Mathis explained that the Executive Response Team was "a specialized group of, basically, customer service reps."²⁴⁹

Ms. Dolan told the Investigative Subcommittee that the Executive Response Team

responded to any complaints or escalations that were directed to Kerry Killinger [then-CEO of Washington Mutual] or any of the

²⁴⁴ CSOC.RICH.002603.

²⁴⁵ *Id.*; see also CSOC.RICH.002272.

²⁴⁶ Mathis Int. Tr. at 12.

²⁴⁷ *Id.* at 11.

²⁴⁸ *Id.* at 11-12.

²⁴⁹ *Id.* at 19.

other higher up executive members of the company. We answered written complaints from the OTS, Attorney General, Better Business Bureau, as well as some escalated phone calls.²⁵⁰

Ms. Dolan said that the Executive Response Team had “almost like a hierarchy of complaints.”²⁵¹ Ms. Dolan explained:

You definitely wanted to handle Congressional complaints first, and that included any Congressional office complaints, where a Congressman writes in on behalf of their constituent regarding their loan situation. Then we had the regular Office of Thrift Supervision complaint who regulated us, and we wanted to make sure those were handled in a timely manner. Then Attorney General. And then Better Business Bureau was kind of the low end of the hierarchy of complaints.²⁵²

Ms. Dolan said that the Executive Response Team treated Representative Richardson’s case as if it were a case where a Member of Congress contacted Washington Mutual on behalf of a constituent.²⁵³

Ms. Dolan told the Investigative Subcommittee that:

As the housing crisis grew, we received more and more complaints regarding loss mitigation and the time and their processes as far as customers getting help and getting anxious about the status of their house. And a lot of what we did was reach to the management staff on loss mitigation to get specific answers. But we provided kind of general understanding of, okay, this is the time frame, this is what you need to send us and my team.²⁵⁴

Ms. Dolan said that when she “started in 2007, [the Executive Response Team] was just me and one other person working on the team, and by 2008 our team had grown to six people and they were continuing to hire.”²⁵⁵ Ms. Dolan said:

²⁵⁰ Dolan Int. Tr. at 6.

²⁵¹ Dolan Int. Tr. at 30.

²⁵² *Id.* at 30.

²⁵³ *Id.*

²⁵⁴ *Id.* at 7.

²⁵⁵ *Id.* at 13.

A lot of times they do a Google search and they will pull up and start calling any numbers that they can find until they can get to somebody who they feel has more power than the customer service representatives. Also whenever anybody would send an e-mail to the CEO, it would get routed back through our work queue, as well as any letters that were sent to Seattle, Washington executive offices, directed to the president of the company.²⁵⁶

Ms. Dolan said that borrowers would reach the Executive Response Team through a variety of methods.²⁵⁷ Ms. Dolan told the Investigative Subcommittee that it was “[v]ery typical” for a borrower to contact the Executive Response Team after being denied a loan modification.²⁵⁸ Ms. Dolan said that “[e]verybody wants to believe that they want to save their house and they qualify and there is something we can do.”²⁵⁹ Ms. Dolan said that in many cases, the Executive Response Team was able to help people who had been previously denied a loan modification.²⁶⁰ Ms. Dolan said that “a lot of times people are denied out because they didn’t provide the documentation that they needed to in a timely manner.”²⁶¹ Ms. Dolan also said that “if people’s financial situations have changed, that could change the outcome of their modification request.”²⁶²

Ms. Thorn told the Investigative Subcommittee it was not unusual for Washington Mutual to continue to work with a borrower who had been denied a loan modification.²⁶³ Ms. Thorn explained that “there are many other workout opportunities other than just a mod, and there are lots of different programs within even the modification, so – or, you know, maybe somebody’s financials have changed. Maybe their situation has changed. So it’s not unusual.”²⁶⁴

²⁵⁶ *Id.* at 14.

²⁵⁷ *Id.*

²⁵⁸ *Id.* at 33.

²⁵⁹ *Id.*

²⁶⁰ *Id.*

²⁶¹ *Id.*

²⁶² *Id.*

²⁶³ Thorn Int. Tr. at 81.

²⁶⁴ *Id.* at 81.

5. *Hold on the Foreclosure Sale*

Ms. Dolan told the Investigative Subcommittee that if a customer whose house was in the foreclosure process contacted the Executive Response Team seeking assistance, “we would place the foreclosure on hold to allow everybody time to review the case to see if it was something that we could help with.”²⁶⁵ Ms. Dolan said that “[i]f the customer called in and their foreclosure was a week away, we would put the hold on when they requested the package, just to make sure that it didn’t go to sale before we could get the information.”²⁶⁶ Ms. Dolan said that “if it was a further off foreclosure or a date wasn’t set yet for the property, we would wait until the package came in to place the hold on it.”²⁶⁷ Ms. Dolan said that the typical hold period was “anywhere from 30 to 60 days.”²⁶⁸ Ms. Mathis said that the typical hold period is thirty days, but that Washington Mutual would create longer holds “[i]f it’s necessary.”²⁶⁹

Ms. Mathis told the Investigative Subcommittee that, if Washington Mutual had:

a borrower and the foreclosure sale is more than 72 hours from the date that we want to put it on hold, then within our servicing system there’s a ‘task’ is what we call it. It’s just an electronic message, basically, that is picked up by our Foreclosure Department, and the Foreclosure Department somehow notifies the attorney’s office of the hold.²⁷⁰

Ms. Dolan told the Investigative Subcommittee that there were very few circumstances in which the Executive Response Team would not place a hold on a foreclosure.²⁷¹ Ms. Dolan said that “the only thing I can imagine that would do that is if it is an investor guideline that we were unable to hold it due to the investor agreement with who owns the loan. But typically we do hold it.”²⁷² Ms. Dolan explained that “[t]he mantra was, you know, we want to err on the side of

²⁶⁵ Dolan Int. Tr. at 8; *see also* Mathis Int. Tr. at 10.

²⁶⁶ Dolan Int. Tr. at 9; *see also* Mathis Int. Tr. at 10.

²⁶⁷ Dolan Int. Tr. at 9.

²⁶⁸ *Id.*; *see also* Mathis Int. Tr. at 10.

²⁶⁹ Mathis Int. Tr. at 10.

²⁷⁰ *Id.*

²⁷¹ Dolan Int. Tr. at 10.

²⁷² *Id.*

the customer and be safe instead of taking the property to foreclosure that could have been saved.”²⁷³

Representative Richardson told the Investigative Subcommittee that “my experience that has been thus far is that if you are currently working on a modification, they give you an opportunity to complete the modification. That is what I have understood that has been happening.”²⁷⁴

Ms. Siedzik, then part of Washington Mutual’s Executive Response Team, sent an email to Allison Dolan on April 3, 2008, at 1:59 p.m.²⁷⁵ In that email, Ms. Siedzik wrote, “Allison – will you please take care of this asap??? The FCL sales is scheduled 4/7.”²⁷⁶ Ms. Dolan replied to Ms. Siedzik’s email on April 4, 2008, at 9:48 a.m.²⁷⁷ In her reply, Ms. Dolan stated, “I have put the foreclosure sale on a 60 day hold and ordered the reinstatement figures. I should have those on Monday.”²⁷⁸ On April 3, 2008, Allison Dolan of Washington Mutual’s Executive Response Team placed a hold on the planned foreclosure sale of Representative Richardson’s Sacramento property.²⁷⁹ Washington Mutual’s Consolidated Notes Log states that the hold began on April 4, 2008, and would last for “60 DAYS TO ALLOW THE BORROWER TO RESINSTATE THE LOAN. SHE IS A PROMINENT POLITICAL FIGURE.”²⁸⁰

Ms. Dolan told the Investigative Subcommittee that her “manager at the time [Ms. Siedzik] had received an escalation through the executive offices that she brought to me and requested that I place the foreclosure on hold.”²⁸¹ Ms. Dolan said she “received the loan number

²⁷³ *Id.*

²⁷⁴ Richardson Int. Tr. at 28.

²⁷⁵ CSOC.RICH.002604.

²⁷⁶ *Id.*; see also CSOC.RICH.002271.

²⁷⁷ CSOC.RICH.002604.

²⁷⁸ *Id.*

²⁷⁹ CSOC.RICH.002609.

²⁸⁰ CSOC.RICH.002267; see also CSOC.RICH.002399.

²⁸¹ Dolan Int. Tr. at 12.

from my manager and kind of a brief synopsis.”²⁸² Ms. Dolan did not know how Representative Richardson got in contact with the Executive Response Team.²⁸³

On April 7, 2008, Washington Mutual publicly announced the postponement of the foreclosure sale until May 7, 2008.²⁸⁴

Ms. Dolan sent an email to Ms. Siedzik and Ms. Alvarez on April 10, 2008, at 1:15 p.m.²⁸⁵ In that email, Ms. Dolan stated, “Here is the Reinstatement figures for this loan. Do you want me to fed-ex it to the borrower?”²⁸⁶ On April 11, 2008, Ms. Alvarez replied to Ms. Dolan’s April 10, 2008, email stating: “Yes please send this to her via overnight on Monday.”²⁸⁷ Ms. Dolan told the Investigative Subcommittee that “[t]here was usually some lag time between the package being received in the mail or via fax and then the actual loss mitigation workout rep receiving the file to work.”²⁸⁸

Ms. Dolan sent a letter to Representative Richardson dated April 17, 2008.²⁸⁹ That letter stated:

Dear Ms. Richardson:

Thank you for your recent contact with our Executive Office. Please find your reinstatement figures enclosed. Please remit the exact reinstatement amount in certified funds to us at the below address:

Washington Mutual
Default Cash Processing
7255 Baymeadows Way
Jacksonville, FL 32256

²⁸² *Id.* at 17.

²⁸³ *Id.*

²⁸⁴ CSOC.RICH.002508.

²⁸⁵ CSOC.RICH.002604.

²⁸⁶ *Id.*; *see also* CSOC.RICH.002271.

²⁸⁷ CSOC.RICH.002605; *see also* CSOC.RICH.002273.

²⁸⁸ Dolan Int. Tr. at 11.

²⁸⁹ CSOC.RICH.002455.

We have placed a sixty day hold on all foreclosure sale or actions; the hold will expire on June 4, 2008.²⁹⁰

As of April 7, 2008, Representative Richardson's total reinstatement amount was \$37,023.60.²⁹¹ Representative Richardson never paid this reinstatement amount.²⁹²

The Washington Mutual Case Notes state that on April 22, 2008, "LOAN SERVICE EXECUTIVE RESOLVED S/W MS RICHARDSONS ASSISTANT AND ADVISED HIM THAT THE RESINT FIGURES HAVE BEEN SENT TO HER VIA FED EX ON 4/17. HE WILL MAKE SURE THAT SHE RECEIVES THEM."²⁹³

The Executive Response Team did not notify the Loss Mitigation Department before it placed the hold on the foreclosure sale.²⁹⁴ Ms. Mathis told the Investigative Subcommittee that it was not unusual for the Executive Response Team to not contact the Loss Mitigation Department prior to placing the hold on the foreclosure sale, "if they haven't gotten to that point yet. They could have just started their research. And if their research was surrounding the foreclosure, then they're going to go through the entire timeline of what happened, when and why[.]"²⁹⁵

6. *Conclusions Regarding the Decision to Place a Hold on the Foreclosure Sale*

The Investigative Subcommittee asked Mr. Huntzinger, its independent mortgage consultant, to provide his professional opinions regarding the commercial reasonableness of Washington Mutual's decision to place a hold on the foreclosure sale of Representative Richardson's Sacramento property. Mr. Huntzinger reported the following conclusions to the Investigative Subcommittee:

Based on my review of the documents and testimony provided to me by the Investigative Subcommittee, it is my professional opinion that the hold on the foreclosure proceedings for Representative Richardson's Sacramento property seems to be

²⁹⁰ CSOC.RICH.002455.

²⁹¹ CSOC.RICH.002456.

²⁹² CSOC.RICH.002311 to CSOC.RICH.002321.

²⁹³ CSOC.RICH.002605.

²⁹⁴ Mathis Int. Tr. at 20.

²⁹⁵ *Id.*

commercially reasonable. Representative Richardson did make contact with the lender seeking a workout. The Washington Mutual Executive Response Team placed a 60 day hold on the foreclosure to give time for the loss mitigation area to collect the information necessary to determine what work outs could be offered. It was reasonable for Washington Mutual to place a hold on the foreclosure because Representative Richardson's situation had changed and she was communicating with the lender.

Also, Washington Mutual had an appraisal completed on the property on March of 2008 showing a market value of \$475,000. (JPMC-000731) The original loan was for \$535,000. So, Washington Mutual was underwater on the loan. If the Loss Mitigation Team could find a work out, it would reduce the financial loss to Washington Mutual. This is the goal of loss mitigation. Otherwise Washington Mutual would have had to recognize a loss on the property. Thus, based on Representative Richardson's change in financial situation and expression of interest in staying in the property, it made financial sense to Washington Mutual to work with Representative Richardson to determine if she could afford to keep the home.²⁹⁶

E. Foreclosure Sale of the Sacramento Property

1. Washington Mutual Inadvertently Released the Hold

Shortly after the foreclosure sale of Representative Richardson's home was placed on hold, Washington Mutual inadvertently removed the hold.²⁹⁷ Ms. Thorn, then a National Asset Recovery Manager at Washington Mutual, told the Investigative Subcommittee that the foreclosure sale of Representative Richardson's Sacramento property was put on hold by the Executive Response Team but it appeared in the Washington Mutual computer system as though the hold was placed by the Loss Mitigation Department.²⁹⁸ She explained that during a routine audit of the current foreclosure holds, the Loss Mitigation Department flagged the hold because at that time, "Loss Mitigation was not working a deal with the borrower, and so they recognized the loan as not, you know, in my hold and shouldn't be owned by Loss Mitigation."²⁹⁹ As such, the auditor for the Loss Mitigation Department removed the hold "and off [the property] went to

²⁹⁶ Huntzinger Report at 8.

²⁹⁷ Thorn Int. Tr. at 61-62.

²⁹⁸ Thorn Int. Tr. at 61-62.

²⁹⁹ *Id.*

sale. It was an error.”³⁰⁰ Ms. Thorn explained that “the hold should have – they could have coded it differently, you know, and put it on a different type of hold. But the loan – the bottom line here is, the loan should have remained on hold.”³⁰¹

John Berens, then the Division Executive for Default Servicing at Washington Mutual told the Investigative Subcommittee:

I mean, we always try to look back whenever, you know, we have a process failure. And I think the issue here is with the escalation group not – two things, really. One is, the pre-review before a sale didn’t dig deep enough, right, to identify that there had been a conversation with the borrower prior to going to sale. And the escalation group maybe, you know, didn’t put the right code on the system, things of that nature didn’t know how to properly cancel the sale or put the sale on hold.³⁰²

2. Foreclosure Sale

After the hold on the foreclosure sale of Representative Richardson’s Sacramento property was removed, the home “went subsequently to a foreclosure.”³⁰³ Washington Mutual’s “Foreclosure Sale Bidding Instructions” for Representative Richardson’s Sacramento property stated that the total debt on the property was \$573,898.87, but that the market value of the property was \$475,000.00.³⁰⁴ The instructions further state that Washington Mutual’s bid for the property was \$388,000.00, and that the sale date was May 7, 2008.³⁰⁵ At the foreclosure sale, Red Rock Mortgage won the foreclosure auction by bidding \$388,000.01 for the property.³⁰⁶

Representative Richardson told the Investigative Subcommittee that she was unaware that the house was sold at foreclosure until she “received a phone call from a reporter who said, your house was – did you know – his exact words, his words were something like, do you know your

³⁰⁰ *Id.*

³⁰¹ *Id.* at 62.

³⁰² Interview Transcript of John Berens (hereinafter Berens Int. Tr.) at 9.

³⁰³ Thorn Int. Tr. at 17.

³⁰⁴ CSOC.RICH.002518.

³⁰⁵ *Id.*

³⁰⁶ CSOC.RICH.009296 to CSOC.RICH.009297.

house was sold today at auction?”³⁰⁷ Representative Richardson said that she “got on the phone and tried to reach Washington Mutual to find out what happened, because I understood I had a loan modification in place. That was my understanding.”³⁰⁸

F. Rescission of the Foreclosure Sale

1. Internal Washington Mutual Discussion

After Representative Richardson contacted Washington Mutual to ask why her home was sold at a foreclosure sale, Washington Mutual had numerous internal discussions about how to react to the foreclosure sale.³⁰⁹ One of the first such conversations began when Sara Gaugl of Washington Mutual’s Home Loans Public Relations sent an email on May 21, 2008, at 1:24 p.m. to Brad Kallner, then a National Manager of Loss Mitigation at Washington Mutual, with copies to Steven Champney, then a Senior Vice President National Default Management at Washington Mutual; Mr. Berens; Ms. Owen, and Alan Elias, then a Senior Vice President, Corporate Communications for Washington Mutual.³¹⁰ The subject of Ms. Gaugl’s email was “Research Needed: Congresswoman Richardson/Foreclosure.”³¹¹ Ms. Gaugl’s email forwarded a news article about the foreclosure sale of Representative Richardson’s Sacramento property.³¹² In the email, Ms. Gaugl stated:

Brad –

Please see the article embedded below for more detail, but long story short, Congresswoman Laura Richardson appears to have defaulted on her WaMu loan (second home) and on March 19, a notice was filed with the county that her property would be sold at auction.

³⁰⁷ Richardson Int. Tr. at 37.

³⁰⁸ *Id.* at 37-38.

³⁰⁹ *See e.g.*, CSOC.RICH.002624; CSOC.RICH.004784 to CSOC.RICH.004785; CSOC.RICH.005381; CSOC.RICH.005743 to CSOC.RICH.005744; CSOC.RICH.005808; CSOC.RICH.005841. The Investigative Subcommittee notes that JPMorgan Chase opted to redact significant portions of its document production in response to the Investigative Subcommittee’s subpoenas.

³¹⁰ CSOC.RICH.004784.

³¹¹ *Id.*

³¹² CSOC.RICH.004785 to CSOC.RICH.004787.

Congresswoman Richardson initially declined to comment, however, Jan Owen has learned from the Congresswoman that she plans to communicate to The Washington Post that she has established a repayment plan with WaMu.

Would you please look[] into Congresswoman Richardson's situation as soon as possible so that we understand the facts? Her Loan number is [account number].³¹³

Mr. Kallner replied to Ms. Gaugl's email on May 21, 2008, at 5:16 p.m., and added Ms. Siedzik and Ms. Smith, Department Manager, Community Outreach, Homeownership Preservation Team, at Washington Mutual, to the email.³¹⁴ Mr. Kallner's email stated, "I have checked with Kim, we tried to work a modification, unfortunately she had a deficit monthly of over \$2,100. We placed the original foreclosure sale date on hold for 30 days in April. The loan went to sale on 5/7/08, third party outbid."³¹⁵ Ms. Smith replied to Mr. Kallner's email on May 21, 2008, at 5:30 p.m.³¹⁶ Ms. Smith's reply email stated:

...just one clarification

The foreclosure hold that was placed in April was not initiated by loss mit.

After loss mitigation denied the workout request, it appears the homeowner called in and requested additional time to reinstate the loan. On 4/3/08, our executive response team submitted a request to the attorney to postpone the 4/7/08 sale date.³¹⁷

Ms. Owen told the Investigative Subcommittee that "we spent a lot of time worrying about the reputation of Washington Mutual and working on press statements and working with the PR division and Sarah [Gaugl] to craft what we wanted to say to the press."³¹⁸

David Schneider, then President of Home Loans at Washington Mutual, sent an email to Mr. Berens, on May 22, 2008, at 12:41 p.m.³¹⁹ The subject of the email was: "Congresswoman

³¹³ CSOC.RICH.004785.

³¹⁴ CSOC.RICH.004784.

³¹⁵ *Id.*

³¹⁶ *Id.*

³¹⁷ *Id.*

³¹⁸ Owen Int. Tr. at 15.

Richards [sic] and David S.”³²⁰ Mr. Schneider’s email stated, “What went wrong in the process?”³²¹ Mr. Berens replied to Mr. Schneider’s email on May 22, 2008, at 12:58 p.m.³²² Mr. Berens’ reply email stated:

Human error. Loss mitigator working their exception report saw we had turned the customer down for loss mit and removed the code.

They should have dug deeper. ERT letter went to customer the day after we removed the code.

I think we have a good case to rescind the sale. Customer will be put back in the same position as prior to the sale assuming she cooperates (we need her agreement to show the postponement letter to the third party). I’ll send you an update when I get further info.³²³

Mr. Schneider replied to Mr. Berens on May 22, 2008, at 1:15 p.m. asking, “What about the process to look at all loans prior to foreclosure?”³²⁴ Mr. Berens forwarded Mr. Schneider’s email to Ms. Thorn and Steven Champney on May 22, 2008, at 4:39 p.m., asking, “Do we know if this was reviewed?”³²⁵ Ms. Thorn replied to Mr. Berens’ email on May 22, 2008, at 4:49 p.m. Ms. Thorn’s reply stated:

Yes, it was reviewed prior to going to sale, but the notes were not real clear on the hold and LMT authorized the removal of the hold.

We are working through to see if we can tighten the process here since this was an executive complaint.

I will call you shortly as there is a lot of movement here with next steps regarding the media and jumping on a call with communications and legal in a minute. I have had several conversations with the Congresswoman and she is in damage

³¹⁹ CSOC.RICH.005744.

³²⁰ *Id.*

³²¹ *Id.*

³²² CSOC.RICH.005743.

³²³ CSOC.RICH.005743 to CSOC.RICH.005744.

³²⁴ CSOC.RICH.005743.

³²⁵ *Id.*

control and wants to be on the same page with the media. She is not at all blaming Wamu for what we have done---at least not to me.³²⁶

On May 27, 2008, Ms. Gaugl sent an email to several Washington Mutual executives, including Ms. Thorn and Ms. Owen.³²⁷ Ms. Gaugl's email stated:

All:

FYI – it appears that Congresswoman Richardson has now engaged a spokesperson – William Marshall. Among other things, he states that Ms. Richardson is awaiting clarification from WaMu as to whether she had secured new loan terms in time, but that she is still in fact the owner of her Sacramento home (though public records state otherwise).

I'll continue to let you know of any other new developments as reported by the media.³²⁸

Ms. Thorn sent an email to Ms. Gaugl, Ms. Owen, and Paul Battaglia, then a First Vice President and Senior Counsel at Washington Mutual, on May 28, 2008, at 12:44 p.m.³²⁹ Ms. Thorn's email stated:

I got a phone call last night leaving me a message to please call Congresswoman Richardson.

Any change in how you would like me to respond/handle? I have not done anything at this point in time.

Seems that the new opinion coming out of John Berens' office is that we should not rescind the sale unless she comes up with the reinstatement funds in which we gave her the 60 days to do so.....

Just wanted to pass this along.³³⁰

³²⁶ *Id.*

³²⁷ CSOC.RICH.002624.

³²⁸ *Id.*

³²⁹ CSOC.RICH.005706.

³³⁰ *Id.*

Ms. Owen replied to Ms. Thorn's email on May 28, 2008, at 1:19 p.m.³³¹ Ms. Owen's reply stated, "Ann: I will try and get a call in today- how late for you this pm tonite? That being said- I am having a tendency to agree with the new thought process."³³²

Washington Mutual provided the Investigative Subcommittee with undated, handwritten notes.³³³ The notes stated:

- Do not see any value to you to rescind
- Willing to have brooke record rescission deposition discovery
- Rescind – expect her to reinstate and If -no mod-
- 1. Reinstates, we rescing [sic] and lawsuit
- 2. No Rein. Goes to 3rd Party - done
- 3. Reinstates, no lawsuit but not on-going payments and maintain Strongly advise³³⁴

On May 28, 2008, at 10:06 p.m., Ms. Gaugl sent an email to Mr. Schneider, Mr. Berens, Mr. Champney, with a copy to several other Washington Mutual employees.³³⁵ Ms. Gaugl's email stated:

All:
So you are aware, I just received a call from a producer with CNN re: Congresswoman Richardson's "debacle." Apparently, CNN's Campbell Brown plans to discuss the Congresswoman's situation during tomorrow's 8 p.m. Eastern broadcast.

The producer said she's been tasked with cross-checking the accuracy of Ms. Richardson's statements with WaMu, at which point I informed her that we have not received consent from Ms. Richardson that would allow us to discuss her loan situation.

³³¹ CSOC.RICH.005808.

³³² *Id.*

³³³ CSOC.RICH.002456.

³³⁴ *Id.*

³³⁵ CSOC.RICH.005381.

At that point, she informed me that CNN has talked with a forensic accountant. Based on his/her analysis of Ms. Richardson's financial situation, the accountant has "determined" that the Congresswoman probably shouldn't have qualified for the (WaMu) loan in the first place.

I'll keep you informed as I learn more. I expect to receive an update from CNN tomorrow.³³⁶

Ms. Owen forwarded Ms. Gaugl's email to Scott Gaspard, then in Government Relations at Washington Mutual, on May 28, 2008, at 10:06 p.m., stating, "In my opinion we are running on borrowed time."³³⁷ Ms. Owen told the Investigative Subcommittee that she was:

concerned that Washington Mutual would be perceived in the press as being a bumbling company. And we were having so many internal problems with loan modifications and so many people coming and trying to get loan modifications. Plus, we were having problems as a company. We were also downsizing.

I was talking about borrowed time, that the press was going to show us as a company that was not a good company and not running its affairs properly.³³⁸

Ms. Owen sent an email to Mr. Gaspard on May 29, 2008, at 12:28 p.m.³³⁹ The subject of Ms. Owen's email was "I will not be on the call."³⁴⁰ Ms. Owen's email stated:

Today if you are ok with that. Also we were on a call for much of the morning, regarding Richardson- we are instructing the trustee to file the notice of rescission- should record on Monday. We are verbally reporting that to Richardson today and we are working on putting together a modification package for her. Call with any questions, i [sic] am on the cell. J³⁴¹

³³⁶ *Id.*

³³⁷ *Id.*

³³⁸ Owen Int. Tr. at 24.

³³⁹ CSOC.RICH.005365.

³⁴⁰ *Id.*

³⁴¹ *Id.*

On June 3, 2008, Mr. Elias, then with Washington Mutual's Corporate Communications team, sent an email to Ms. Owen, with the subject "Richardson Update."³⁴² In the email, Mr. Elias wrote, "I really am looking forward to her almost immediately defaulting on any new plans or failing to pay to get caught up. Maybe we should throw a lawn mower into the deal to sweetem [sic] the pot?! ;)"³⁴³ Ms. Owen replied, "You, my dear are evil – being situaTionally [sic] ADD – I am now concerned about Pelosi being forced into calling for an ethics commission investigation[.]"³⁴⁴ Ms. Owen told the Investigative Subcommittee:

There had been – in my opinion, there had been too much press on this. If I remember correctly, the congresswoman had to – didn't have to refile some of her financial statements to the FEC? And I felt that, from a political perspective, that, if that happened, Washington Mutual would be called in, and we would be made, again, to look like we didn't know how to do our business.³⁴⁵

During the Investigative Subcommittee's interview of Ms. Thorn, the following exchange occurred:

Chairman Chandler. So, as I understand this, you were then placed in a position where you had a difficulty on both ends. You had a difficulty with the error that was made – I hate to use the term "liability," but you had at least some problem that you recognized by making an error relative to the hold that you had given to Representative Richardson.

The Witness. Correct.

Chairman Chandler. And since you had already made the sale, you had to analyze whether you had some difficulty also in rescinding a sale made to a buyer in good faith.

The Witness. Correct.

Chairman Chandler. And that's what you all were wrestling with about when it came to the rescission.

I assume that a number of your people sat around the table or talked somehow about the ramifications of the rescission, based on that whole fact scenario –

The Witness. Correct.

³⁴² CSOC.RICH.005282.

³⁴³ *Id.*

³⁴⁴ *Id.*

³⁴⁵ Owen Int. Tr. at 28.

Chairman Chandler. And how it would affect Washington Mutual.

The Witness. Absolutely.

Chairman Chandler. So would it be your testimony that the rescission was made ultimately based on those facts and had nothing to do with Representative Richardson in any other – in her capacity or any other.

I mean, with that fact situation, you would have acted the same way under any circumstances?

The Witness. Absolutely. Any circumstance, absolutely. Absolutely.³⁴⁶

2. *Rescission of the Foreclosure Sale*

Washington Mutual ultimately decided to rescind the foreclosure sale of Representative Richardson's Sacramento property and recorded the rescission on June 2, 2008.³⁴⁷

The Investigative Subcommittee asked Ms. Thorn how frequently Washington Mutual rescinded foreclosure sales, and she responded, “[r]escinding sales is certainly not common practice. Does it happen? Yes, and we have them. But common? No. I mean, it happens on a, you know, weekly, monthly basis that we have rescissions. It’s not unusual.”³⁴⁸ Ms. Thorn further stated that: “You know, from a percentage standpoint, I would have to venture a guess of, you know, it’s 1 percent, less than a percent of our monthly total sales that actually get rescinded.”³⁴⁹ Asked the same questions, Ms. Mathis stated that rescissions of foreclosure sales occurred “[m]aybe once a month or once every 2 months, something like that.”³⁵⁰

Ms. Dolan told the Investigative Subcommittee that she was aware of other rescissions at Washington Mutual, and that they occurred once every few months.³⁵¹ Ms. Dolan said that the

³⁴⁶ Thorn Int. Tr. at 63-64.

³⁴⁷ *Id.* at 33.

³⁴⁸ *Id.* at 15.

³⁴⁹ *Id.* at 16.

³⁵⁰ Mathis Int. Tr. at 16.

³⁵¹ Dolan Int. Tr. at 22.

rescissions were “costly and we try to only do rescissions if there was a mistake made on behalf of Washington Mutual.”³⁵²

At the time of the rescission of the foreclosure sale, Representative Richardson had not completed the loan modification process.³⁵³ Ms. Mathis stated that loan modifications usually occurred before a foreclosure sale was rescinded, because “we want to make sure that they can be approved for the workout before we rescind the sale, so there’s not – we don’t want to rescind something if the borrower can’t afford a modification.”³⁵⁴

Ms. Mathis told the Investigative Subcommittee that approving a rescission before the completion of the loan modification process was unusual.³⁵⁵ Ms. Mathis said that “[g]enerally, it would be because another area failed to hold – put the loan on hold properly. Something fell through the cracks, and it didn’t – they didn’t intend for it to go to sale, but it did. And then they would come to Loss Mitigation to help them with that.”³⁵⁶

Ms. Thorn told the Investigative Subcommittee that Washington Mutual’s decision to rescind the foreclosure sale was based in large part on the letter that Ms. Dolan sent Representative Richardson on April 17, 2008, stating that Washington Mutual had “placed a sixty day hold on all foreclosure sale or actions[.]”³⁵⁷ Ms. Thorn said that Washington Mutual made the decision to rescind the foreclosure sale prior to coming to an agreement on a modified loan based on:

The chronology and the facts going through her loan history – not loan history from when she made payments, but from the conversations that we had with her; and then the conversation she had with the customer service representative that said, we’re going

³⁵² *Id.*

³⁵³ Thorn Int. Tr. at 33.

³⁵⁴ Mathis Int. Tr. at 16. Ms. Mathis explained that “approved for the workout” meant that “we’ve reviewed the loan, we’ve analyzed the income and expenses and determined that this modification is affordable to the homeowner.” *Id.*

³⁵⁵ *Id.* at 16.

³⁵⁶ *Id.* at 17.

³⁵⁷ Thorn Int. Tr. at 46-47; CSOC.RICH.002455.

to send our reinstatement figures to her, and we're going to put the file on hold for 60 days.³⁵⁸

Ms. Thorn told the Investigative Subcommittee that “[r]escinding, not rescinding, again goes back to, you know, the facts of that we made an error and, you know, that we need to make right on that. Even though it went to a third party, we made an error on here and we need to rescind the sale.”³⁵⁹ Ms. Thorn explained:

Had we not sent that letter saying that we were going to put the loan on hold for 60 days, you know, and then 3 days after the loan went to sale and, you know, we got the phone call of, you know, Hey, I want to reinstate my loan or I want to mod now; well, are you going to qualify for a mod. And if it went to third party, in that case, you know, that's where it becomes, you know, sticky in those situations. But because in this particular situation we have that letter and a promise to the customer, that's where then the – you know, the choice becomes easier of making the rescission.³⁶⁰

Ms. Thorn said that “in my world or foreclosure, because of, you know, what it means to foreclose on somebody and what the end result is, if we do something wrong, whether it's a \$50,000 house or a \$9 million house, you know, it doesn't matter, we're going to take action on that.”³⁶¹ Ms. Thorn said that Washington Mutual had “tons of movie stars, sports stars, you know, all of that, and really, honestly, I don't care; I really don't.”³⁶² Ms. Thorn said that “[t]hey go from \$25,000 to \$15 million, and you know, the fact of the matter is and the policy and the procedure of the leadership team is that if we have a situation where we have something that is not right, we make it right.”³⁶³

Ms. Thorn said her:

opinion was to rescind the foreclosure sale. . . . Because we sent her a letter in April – I think it was, you know, April, you know, mid-April – saying that we were going to give her 60 days; and we

³⁵⁸ *Id.* at 46-47.

³⁵⁹ *Id.* at 73.

³⁶⁰ *Id.* at 74.

³⁶¹ *Id.* at 90.

³⁶² *Id.*

³⁶³ *Id.*

sent her reinstatement figures, and we told her we were going to postpone the sale for 60 days, and we didn't abide by that agreement that we sent to her.³⁶⁴

Mr. Berens told the Investigative Subcommittee that Washington Mutual's policy was "typically to try to keep the borrower in their home."³⁶⁵ Mr. Berens said that Representative Richardson's status as a Member of Congress did not factor into Washington Mutual's decision to rescind the foreclosure sale.³⁶⁶ Mr. Berens said, "It doesn't matter to me if she was a congresswoman. . . . One of the big contributing factors is we told her the sale wasn't going to happen. That's a big factor. Right? If one of our employees tells a customer something, that's what we want to – that's a big factor."³⁶⁷ Mr. Berens said that Representative Richardson's ability to repay the loan would be considered in the loan modification agreement. However, he did not "think it would change the – you know, we still made a commitment to the customer. I mean, if they didn't pay, of course we'd probably go to sale later, right?"³⁶⁸ Mr. Berens explained, "[y]ou can always foreclose again[.]"³⁶⁹

3. *Washington Mutual's Communications with Representative Richardson*

In addition to having its internal discussions regarding how to react to the foreclosure sale, Washington Mutual also discussed the foreclosure sale with Representative Richardson.³⁷⁰ Washington Mutual provided the Investigative Subcommittee with handwritten notes of a May 28, 2008, telephone call between Washington Mutual employees and Representative Richardson.³⁷¹ The notes do not indicate the participants in the telephone call. The notes state that Ann Thorn "advised we are going through the process of rescinding sale, must first come to an agreement w/ 3rd party. Asked what her intentions were."³⁷² The notes state Representative

³⁶⁴ *Id.* at 28.

³⁶⁵ Berens Int. Tr. at 15.

³⁶⁶ *Id.* at 16.

³⁶⁷ *Id.*

³⁶⁸ *Id.* at 16-17.

³⁶⁹ *Id.* at 17.

³⁷⁰ *See, e.g.*, CSOC.RICH.002448 to CSOC.RICH.002453.

³⁷¹ *Id.* Ms. Mathis stated that the handwriting belonged to Wendy Woodcock of Washington Mutual, and that the "Ann" referenced in the notes was Ms. Thorn. Mathis Int. Tr. at 20.

³⁷² CSOC.RICH.002448.

Richardson said her “intention is to do the loan modification.”³⁷³ According to the notes, Ms. Thorn “explained that Loss Mit was an option as long as [she] qualified.”³⁷⁴

The notes indicate that Ms. Thorn asked Representative Richardson what were her “intentions w this property? Another option is to stay the course, leaving the FC and sale in place.”³⁷⁵ Representative Richardson responded that she “would like to establish a repayment plan.”³⁷⁶ The notes state that Ms. Thorn told Representative Richardson that Washington Mutual would “set up time to review the account so we can be prepared to set things in motion.”³⁷⁷ According to the notes, Representative Richardson stated: “[a]ll I’m asking is that WaMu allow me to continue w/ the repayment plan and pay back every dime I owe.”³⁷⁸

Ms. Thorn sent an email to Representative Richardson on June 3, 2008, at 8:06 a.m., forwarding a “copy of the rescission notice that should be filed today or tomorrow.”³⁷⁹ Representative Richardson replied to Ms. Thorn’s email on June 3, 2008, at 3:23 p.m., stating, “Thank you for the email...today is election day and I will follow up with you tomorrow.”³⁸⁰

Ms. Thorn sent an email to Ms. Gaugl, Ms. Owen, Mr. Battaglia, and Mr. Cook on June 3, 2008, at 11:08 a.m.³⁸¹ Ms. Thorn’s email stated, “I just wanted to let you know that I have sent a copy of the rescission to Congresswoman [sic] this morning. Once it is recorded, we will get the Loss Mit package out.”³⁸²

³⁷³ *Id.*

³⁷⁴ *Id.*

³⁷⁵ CSOC.RICH.002450.

³⁷⁶ *Id.*

³⁷⁷ CSOC.RICH.002451.

³⁷⁸ CSOC.RICH.002452.

³⁷⁹ CSOC.RICH.003090.

³⁸⁰ *Id.*

³⁸¹ CSOC.RICH.003063.

³⁸² *Id.*

4. *Third Party Claim*

Once Washington Mutual decided to rescind the foreclosure sale, it had to address the concerns of the third-party purchaser of Representative Richardson's Sacramento property.³⁸³ Mr. Berens sent an email to Ms. Thorn and Ms. Woodcock on May 27, 2008, at 9:58 a.m.³⁸⁴ In the email, Mr. Berens asked if Washington Mutual was "progressing with the rescission sale? Does the third party want some cash?"³⁸⁵ Ms. Thorn replied to Mr. Berens' email stating, "Yes and he has not asked for any yet, but we are anticipating that he will. Seattle is working with outside counsel to discuss with him. York—the third party has not hired an attorney."³⁸⁶

Ms. Thorn told the Investigative Subcommittee that Washington Mutual did not consider the potential for the third party to file suit when deciding whether to rescind the foreclosure sale.³⁸⁷ Ms. Thorn said that litigation "doesn't have any reflection on this. The two are not related whatsoever."³⁸⁸

On June 2, 2008, the foreclosure trustee for Representative Richardson's Sacramento property recorded a "Notice of Rescission of Trustee's Deed Upon Sale."³⁸⁹ The notice stated, in part:

4. On 05/07/2008, at 01:30 PM the property was purportedly sold to RED ROCK MORTGAGE, INC being the highest bidder at such time who bid the amount of \$388,000.01.

5. The Trustee's Sale on 05/07/2008 is being rescinded at the request of the Beneficiary as the Beneficiary had previously agreed to postpone the foreclosure sale to June 4, 2008. The Trustee's sale of 05/07/2008 is therefore null and void, and of no force and effect.

³⁸³ See, e.g., CSOC.RICH.005826.

³⁸⁴ *Id.*

³⁸⁵ *Id.*

³⁸⁶ CSOC.RICH.005819.

³⁸⁷ Thorn Int. Tr. at 32.

³⁸⁸ *Id.*

³⁸⁹ CSOC.RICH.002558 to CSOC.RICH.002559.

6. The express purpose of this Notice of Rescission is to return the priority and existence of all lien holders to the status quo ante that existed prior to the Trustee's Sale.³⁹⁰

On June 2, 2008, Washington Mutual's outside counsel sent a letter to the third party purchaser's outside counsel.³⁹¹ In the letter, Washington Mutual rejected Red Rock's counter offer, and instead informed Red Rock Mortgage's outside counsel that Washington Mutual was sending "separately a check in the sum of \$391,190.06, which includes refund of Red Rock Mortgage's purchase funds of \$388,001.01, plus 10% interest thereon through June 6, 2008 totaling \$3,189.05."³⁹² In the letter, Washington Mutual further offered to reimburse Red Rock Mortgage and pay any expenses incurred related to the property "if you will kindly provide an itemization of the expenses and receipts for the expenditures."³⁹³

After Washington Mutual rescinded the foreclosure sale, Red Rock Mortgage filed suit against Washington Mutual.³⁹⁴ Washington Mutual eventually settled the lawsuit with Red Rock Mortgage with a payment of \$100,000, in addition to the refund of the foreclosure sale amount, and a non-disclosure agreement between the parties.³⁹⁵

5. *Conclusions Regarding Decision to Rescind the Foreclosure Sale*

The Investigative Subcommittee asked Mr. Huntzinger to provide his professional opinions regarding Washington Mutual's decision to rescind the foreclosure sale of Representative Richardson's Sacramento home. Mr. Huntzinger reported the following to the Investigative Subcommittee:

Based on my review of the documents and testimony provided to me by the Investigative Subcommittee, it is my professional opinion that the rescission of the foreclosure sale was commercially reasonable. Washington Mutual made an agreement with Representative Richardson to put the foreclosure sale on hold

³⁹⁰ CSOC.RICH.002558.

³⁹¹ CSOC.RICH.002554.

³⁹² *Id.*

³⁹³ CSOC.RICH.002554 to CSOC.RICH.002555.

³⁹⁴ CSOC.RICH.009299 to CSOC.RICH.009350.

³⁹⁵ CSOC.RICH.009392 to CSOC.RICH.009407.

and the hold was lifted due to operational errors by Washington Mutual. This error resulted in the foreclosure sale of Representative Richardson's property. It is my understanding that rescission is not a common practice by lenders. However, if a lender made an error resulting in a foreclosure sale, the lenders should cancel the foreclosure sale. It also not surprising that Washington Mutual had to pay Red Rock Mortgage some amount as a settlement of Red Rock's lawsuit.³⁹⁶

G. Modification of the Loan

1. Documents Submitted by Representative Richardson

Following the rescission of the foreclosure sale, Washington Mutual worked with Representative Richardson to modify her loan.³⁹⁷ Ms. Mathis, then a manager with Washington Mutual's Loss Mitigation Department, told the Investigative Subcommittee that she was asked by Ms. Thorn to work with Representative Richardson on her loan modification.³⁹⁸ Ms. Mathis said that she became involved "[a]fter the [foreclosure] sale had taken place and it was in the process of being rescinded."³⁹⁹ Ms. Mathis said that she "was involved to the extent of calling the borrower with Ms. Thorn, with Ann, to get information so that we could rereview her loan to see if we could offer a modification. Since my team handled the modifications, Ann came to me."⁴⁰⁰

Ms. Mathis sent the two-page Washington Mutual Borrower Assistance Form to Representative Richardson via email on June 6, 2008, at 12:10 p.m.⁴⁰¹ Ms. Thorn sent an email to Ms. Gaugl, Ms. Owen, Mr. Battaglia, and Mr. Cook on June 6, 2008, at 12:27 p.m.⁴⁰² In her email, Ms. Thorn stated that Representative Richardson "was not prepared to discuss financials

³⁹⁶ Huntzinger Report at 10.

³⁹⁷ Mathis Int. Tr. at 12.

³⁹⁸ *Id.*

³⁹⁹ *Id.*

⁴⁰⁰ *Id.* at 13.

⁴⁰¹ CSOC.RICH.002426 to CSOC.RICH.002427.

⁴⁰² CSOC.RICH.002921.

today. We sent her the financial package via email and she said she will have it done by Tuesday or Wednesday.”⁴⁰³

Ms. Gaugl sent an email to Ms. Thorn, Mr. Battaglia, Ms. Owen, and Don Cook, a Vice President at Washington Mutual, on June 10, 2008, at 9:52 p.m.⁴⁰⁴ In that email, Ms. Gaugl stated:

All:

In advance of Ann’s discussion tomorrow with Ms. Richardson, I wanted to make you aware of the blog posting embedded below (thanks for forwarding, Paul). Unfortunately, some reporters are jumping to the conclusion that Ms. Richardson was able to secure a loan modification agreement with WaMu, despite her current financial standing.

Ann, please let us know how things go tomorrow (if you two are able to connect), and whether Ms. Richardson is expected to qualify for a workout based on the financial information provided. If we hear from Ms. Richardson, I will schedule a call tomorrow mid-day so that we can quickly touch base and discuss next steps.⁴⁰⁵

Representative Richardson replied to Ms. Mathis’ June 6, 2008, email on June 12, 2008, at 10:20 a.m.⁴⁰⁶ In her reply, Representative Richardson stated: “Please advise Ann Thorn that I will work on this during the weekend. I apologize for the delay I did not recognize your email / name. I was looking for something from Ann or Ms. Woodcock, so I missed it.”⁴⁰⁷

Ms. Thorn sent a letter to Representative Richardson on June 17, 2008.⁴⁰⁸ In her letter, Ms. Thorn stated:

Dear Ms. Richardson:

⁴⁰³ *Id.*

⁴⁰⁴ CSOC.RICH.003029.

⁴⁰⁵ *Id.*

⁴⁰⁶ CSOC.RICH.005773.

⁴⁰⁷ *Id.*

⁴⁰⁸ CSOC.RICH.002430.

Your e-mail to Julie Mathis dated June 12, 2008 was forwarded to me. You indicated in your e-mail that you would be working on your Homeownership Preservation package over the June 14-15 weekend. I therefore expected to receive your updated financial information sometime on Monday. It is now Tuesday, and I still have not received anything from you, nor have you called to explain your delay.

As you know, in April, 2008, you contacted WaMu asking for the amount necessary to reinstate your loan. We sent you the reinstatement figure on April 17, 2008, along with a cover letter stating that we would postpone the foreclosure proceedings to June 4, 2008. Your property then went to foreclosure sale on May 7, 2008, where it was sold to the high bidder Red Rock Mortgage, Inc. At the time of the foreclosure sale, you were in default on your home and there was not any loan workout or modification agreement in place between you and WaMu, as your prior request for a loan modification was denied.

Due in part to your comments to me that you fully intended to pay your obligations to WaMu, we honored our commitment to postpone the foreclosure sale by instructing the foreclosure trustee to record a Notice of Rescission of the foreclosure sale, thereby restoring legal title to the Property in your name.

Following the Notice of Rescission, we've had several telephone conversations where you reiterated your desire to fulfill your loan obligation. On May 28, 2008, Wendy Woodcock and I had a telephone conversation with you where we told you that you would have to send in updated financial information for review. We sent you the forms on June 6, 2008, but they have not yet been completed and returned for our review.

Based on your most recent assurance that you would be working on providing the financial information over the June 14-15 weekend, we expect to have all of the information that we've requested by the end of the day on Friday, June 20, 2008. If we do not have all of the information requested, we will reschedule the foreclosure sale of your property.⁴⁰⁹

Representative Richardson replied to Ms. Thorn's letter by way of an email sent on June 18, 2008, at 10:24 a.m.⁴¹⁰ Representative Richardson's email stated:

⁴⁰⁹ *Id.*

⁴¹⁰ CSOC.RICH.002853.

Ms. Thorn,

Due to the numerous issues that have surrounded my agreement and the improper sale of my property, I am working with my original broker to complete the application accurately. I am limited to his availability therefore it is taking longer than I expected. I advised Ms. Mathis of my delay via email and was told you would be notified.

I was quite surprised with your attached letter that requires submittal by Friday which I do not believe was expressed before. If you recall, it was I, [sic] that suggested we begin the process prior to the completion of the rescission [sic] not WAMU.

I will meet your deadline; however, in the future clear indications of time deadlines is [sic] needed.⁴¹¹

When Representative Richardson was working to complete the Loss Mitigation forms, she sought the assistance of Mr. Thomas, her original mortgage broker.⁴¹² On June 17, 2008, Representative Richardson received an email from Mr. Thomas.⁴¹³ The email stated:

Good Morning Congresswoman Richardson,

I completed the WAMU application, but I have a few questions that I need answered before I forward to you. Those questions are as follows:

Has Your Monthly Income Changed from the \$9,428.83 + 3037.80
....

Shall we use any additional secondary addresses for correspondence?

Am I using your Farmers and Merchants Account as your primary account?

I may need to review your credit report to plug in your current debts.... We'll need to provide some "specifics" such as Insurance, Food [sic], Day Care, etc...I think if we could schedule a time to speak again that would be great. I apologize that we didn't discuss

⁴¹¹ *Id.*

⁴¹² CSOC.RICH.006726.

⁴¹³ *Id.*

this yesterday. We can also complete this via-email if that fits your schedule better...Please advise.⁴¹⁴

Representative Richardson replied to Mr. Thomas's email on June 18, 2008.⁴¹⁵ Her email stated:

Let's review this information at your earliest convenience. I can be reached at [mobile phone number] or through Daysha at [mobile phone number]. I must get the application to WAMU today. Here are my preliminary answers:

- 1) Monthly gross salary: \$14,083.00 per month \$169,000.00 per year
- 2) Property address:
Sacramento: 3622 W. Curtis Drive
Sacramento, California
Secondary Address
Long Beach: 717 E. Vernon Street
Long Beach, California 90806
- 3) My primary account is:
Xerox Federal Credit Union
2200 E. Grand Ave El Segundo, Ca 90245
Acct # [account number] or [account number]
- 4) Feel free to pull my credit report.

Representative Richardson sent another email to Mr. Thomas that same day.⁴¹⁶ This email stated, "I just faxed the two forms and received a confirmation sheet. I forgot one line the 'loans and rent' section. Together prior to short term loan modifications, it is about \$6,000.00 per month."⁴¹⁷

Mr. Thomas told the Investigative Subcommittee that Representative Richardson:

had called me – I want to say it was June; it may have been last year – and asked me was I familiar with that process. I told her that I had helped a couple of borrowers, and she asked – she said she was applying to get her loan modified and asked me could I

⁴¹⁴ CSOC.RICH.006726.

⁴¹⁵ CSOC.RICH.006724.

⁴¹⁶ CSOC.RICH.006722.

⁴¹⁷ *Id.*

take a look at the application, basically, and she forwarded that over to me.⁴¹⁸

Representative Richardson completed the two-page Borrower's Assistance Form and provided it to Washington Mutual.⁴¹⁹ This was a financial work sheet, which "lists out the expenses and income for a mortgagor to give [Washington Mutual] an idea of their financial situation and the ability to do a loss mitigation workout."⁴²⁰ Washington Mutual also pulled a credit report for Representative Richardson.⁴²¹

On June 19, 2008, at 7:54 p.m., Representative Richardson sent a facsimile to Ms. Thorn and Ms. Mathis.⁴²² The facsimile included the two-page Washington Mutual Borrower Assistance Form as completed by Representative Richardson.⁴²³ Representative Richardson confirmed to the Investigative Subcommittee that it was her handwriting on the Borrower Assistance Form.⁴²⁴ The form asked several background questions, including "How many people live at your address?" and "Do you have any other loans on the home?"⁴²⁵ One question on the form asked "What is the reason you are having trouble with your home loan payments?"⁴²⁶ In response to that question, Representative Richardson wrote, "I have experienced three employment changes within one year, two delays of income for over three months, unexpected illness and subsequent death of my father."⁴²⁷ The form also included space to include information about expenses, income, and assets.⁴²⁸ In the income section, Representative Richardson included monthly "Gross Wages" of \$14,100 and "possible rent credit" of \$1,500 to \$2,000, for total monthly income of \$15,600 to \$16,100.⁴²⁹ Representative

⁴¹⁸ Thomas Int. Tr. at 26.

⁴¹⁹ Thorn Int. Tr. at 49.

⁴²⁰ *Id.* at 38.

⁴²¹ *Id.*

⁴²² CSOC.RICH.002425 to CSOC.RICH.002427.

⁴²³ CSOC.RICH.002426 to CSOC.RICH.002427.

⁴²⁴ Richardson Int. Tr. at 42.

⁴²⁵ CSOC.RICH.002426.

⁴²⁶ *Id.*

⁴²⁷ *Id.*

⁴²⁸ CSOC.RICH.002427.

⁴²⁹ *Id.*

Richardson confirmed that this “rent credit” was the same potential income from the rent of her mother’s home as she referenced on the Employment Income Verification letter submitted with her original loan application in 2007.⁴³⁰

Washington Mutual utilized a Financial Review Worksheet when analyzing whether to grant a loan, and at what terms.⁴³¹ That document listed Representative Richardson’s gross monthly income as \$14,100 and net monthly income as \$11,280.⁴³² The document listed the amount of her “Other Mortgages,” which included the mortgage on her San Pedro and Long Beach properties and her rental property in Washington, D.C., to be \$6,100.⁴³³ Ms. Mathis told the Investigative Subcommittee that the Financial Review Worksheet for Representative Richardson’s loan modification indicates that Washington Mutual did not take into account the “possible rent credit” that Representative Richardson indicated on her Borrower Assistance Form.⁴³⁴ Ms. Mathis stated that “[i]f this says ‘possible rent credit,’ we wouldn’t use possible. You would already have to have it rented. We don’t base our modifications on assumed income. You have to actually have the income or the – it might not be income just money coming into the house.”⁴³⁵

Ms. Mathis told the Investigative Subcommittee that if borrowers “only provide gross income, we use a certain percentage – and I don’t recall if they were using 20 percent or 25 percent – to get to a net. I don’t remember what the amount used to reduce it is.”⁴³⁶

Ms. Mathis told the Investigative Subcommittee that based on the recommendation from the “decisioning tool” Washington Mutual decided to offer Representative Richardson a loan modification.⁴³⁷ Ms. Thorn sent an email to Ms. Mathis, Mr. Battaglia, Ms. Gaugl, and Ms.

⁴³⁰ Richardson Int. Tr. at 43; *see* CSOC.RICH.002083.

⁴³¹ Mathis Int. Tr. at 29.

⁴³² CSOC.RICH.001528.

⁴³³ *Id.*

⁴³⁴ Mathis Int. Tr. at 29.

⁴³⁵ *Id.*

⁴³⁶ *Id.*

⁴³⁷ *Id.* at 30.

Owen on June 20, 2008, at 2:57 p.m.⁴³⁸ Ms. Thorn's email stated, "Julie [Mathis] will be calling her this afternoon and offering her a mod."⁴³⁹

2. *Modified Loan*

Ms. Mathis sent an email to Ms. Thorn, Ms. Gaugl, and Mr. Battaglia on June 23, 2008, at 4:22 p.m.⁴⁴⁰ Ms. Mathis' email stated:

Savannah and I just spoke to Ms. Richardson, she agrees to the modification terms. I advised her the loan will not reflect current until we receive the signed documents.

Ms. Richardson wants to know if her rights to the property have been restored and if the locks were changed how she can get into the property. She also wants to coordinate a press release with Sara [Gaugl], I provided her with Sara's phone number.⁴⁴¹

Ms. Owen told the Investigative Subcommittee that she did not believe that Washington Mutual gave Representative Richardson any preferential treatment at any point.⁴⁴² Ms. Owen said that Representative Richardson "was given the amount of – she was given what all the rest of our customers were given when they came through and they were able to work with our loan modification people."⁴⁴³ Ms. Owen said that Representative Richardson never sought to use her position as a Member of Congress to get any favorable treatment from Washington Mutual.⁴⁴⁴

Immediately after Washington Mutual completed the modification of Representative Richardson's loan, the bank discovered that certain unpaid taxes and insurance had been inadvertently left out of the loan modification figures.⁴⁴⁵ Thus, Washington Mutual contacted

⁴³⁸ CSOC.RICH.002858.

⁴³⁹ *Id.*

⁴⁴⁰ CSOC.RICH.003071.

⁴⁴¹ *Id.*

⁴⁴² Owen Int. Tr. at 30.

⁴⁴³ *Id.*

⁴⁴⁴ *Id.* at 31.

⁴⁴⁵ Mathis Int. Tr. at 33.

Representative Richardson to complete a second modification of the loan.⁴⁴⁶ Ms. Mathis told the Investigative Subcommittee that:

Apparently, when the property went to foreclosure sale and was purchased by the third party, we put a stop on our servicing system not to pay any taxes or insurance on the property, because it had been purchased by a third party so we were no longer responsible.

After the rescission was done, those stops remained on the loan. Therefore, the taxes didn't get paid, which caused an issue because they needed to be paid. So we had to go through some hoops to get those stops removed from the servicing system so we could actually get checks cut and pay the taxes.

And because we did that, we advanced money on her account, we had to recover that money, so we had to roll that into the principal balance and re-amortize it. So, in essence, modify the modification.⁴⁴⁷

Ms. Mathis stated that as a result of the re-modification of Representative Richardson's loan, Representative Richardson paid "[a]ll the taxes that would have been paid."⁴⁴⁸

Ms. Thorn sent an email to several Washington Mutual employees on July 7, 2008, at 3:59 p.m.⁴⁴⁹ The subject of Ms. Thorn's email was "RE: [account number] Richardson."⁴⁵⁰ Ms. Thorn's email stated, "Michelle, can you please get this changed today as this is a highly escalated matter."⁴⁵¹ Ms. Thorn told the Investigative Subcommittee that:

any time we have a situation where we have a borrower where we have made an error, where we've taken their home and, you know, we're giving back; where they're going through the process of rescinding that sale, in my world that's escalated, you know, that we've made the error and, you know, gotten to that point where I have now a third – and especially when there is a third-party purchaser involved.⁴⁵²

⁴⁴⁶ *Id.*

⁴⁴⁷ *Id.*

⁴⁴⁸ *Id.* at 34.

⁴⁴⁹ CSOC.RICH.002824.

⁴⁵⁰ *Id.*

⁴⁵¹ *Id.*

⁴⁵² Thorn Int. Tr. at 88.

Ms. Thorn sent an email to several Washington Mutual employees on July 9, 2008, at 1:31 p.m.⁴⁵³ Ms. Thorn's email stated, "Taxes are included and new mod figs need to be communicated to Richardson to let her know that taxes are now included, but we amended the interest and maturity to keep payments the same as originally communicated."⁴⁵⁴

Washington Mutual and Representative Richardson entered into a Loan Modification Agreement effective on August 1, 2008.⁴⁵⁵ According to the Loan Modification Agreement, the unpaid principal balance of the mortgage was \$533,455.31.⁴⁵⁶ The Loan Modification Agreement further stated that the accrued but unpaid interest, costs and expenses on the mortgage were \$63,875.45.⁴⁵⁷ Thus, the new balance on the loan was \$597,330.76.⁴⁵⁸ The Loan Modification Agreement stated that the interest was modified to a fixed rate of 8.254%.⁴⁵⁹ The maturity date on the loan remained the same, but the amortization period changed to 40 years.⁴⁶⁰ The Loan Modification Agreement specifically noted:

Borrower acknowledges and understands that, as a result of this Agreement which may defer payment of an arrearage, or extend the loan amortization period, or both, a lump sum payment may be due on the Maturity Date. All amounts due and owing under the Note, Security Instrument and this Agreement are due in full on the Maturity Date.⁴⁶¹

The Loan Modification Agreement also contained the following provision, which Representative Richardson crossed out before signing:

Acknowledgement by Borrower. As part of the consideration for the Agreement, Borrower agrees to release and waive all claims Borrower might assert against the Trust or its agents, officers, directors, attorneys, employees and any predecessor in interest to

⁴⁵³ CSOC.RICH.003074.

⁴⁵⁴ *Id.*

⁴⁵⁵ CSOC.RICH.001508 to CSOC.RICH.001514.

⁴⁵⁶ CSOC.RICH.001509.

⁴⁵⁷ CSOC.RICH.001510.

⁴⁵⁸ *Id.*

⁴⁵⁹ *Id.*

⁴⁶⁰ *Id.*

⁴⁶¹ CSOC.RICH.001510.

the Note and Security Instrument, and which Borrower contends caused Borrower damage or injury, or which Borrower contends renders the Note or the Security Instrument void, voidable, or unenforceable. This release extends to any claims arising from any judicial foreclosure proceedings or power of sale proceedings if any, conducted prior to the date of this Agreement. Borrowers have and claim no defenses, counterclaims or rights of offset of any kinds against Lender or against collection of the Loan.⁴⁶²

3. Analysis of Modified Loan

Mr. Huntzinger analyzed the commercial reasonableness of Representative Richardson's modified loan, and came to the following conclusion:

Based on my review of the documents and testimony provided to me by the Investigative Subcommittee, it is my professional opinion that the terms of the loan modification offered to Representative Richardson was commercially reasonable. Washington Mutual appeared to be able to recapture the past due principal and interest payments, escrow advances, late fees and third party costs by rolling them into the modified loan. Representative Richardson's original unpaid principal balance (UPB) was \$535,001, with an initial interest rate of 8.8%, with a 30 year term and an appraised value of \$543,000. Representative Richardson's modified UPB is \$597,455.31, with a new fixed rate of 8.254%, with the same maturity date but re-amortized UPB over 40 years and an appraised value as of March 2008 of \$475,000. Thus, the loan modification was not just commercially reasonable, but was in fact beneficial to Washington Mutual. It thus made sense that Washington Mutual wanted to enter into a loan modification agreement under those terms. It should be noted that Washington Mutual bid \$388,000 at the May 2008 Sheriff Sale even though they had a March 2008 appraisal value of \$475,000. When the house sold at the May 2008 Sheriff Sale to Red Rock Mortgage it sold for \$388,001 or one dollar over Washington Mutual's bid. These shows how weak the housing market was in California at this time and how few bidders were at the sale. Washington Mutual would have expected to end up with similar results at another sale and benefited with a modified loan about \$210,000 greater than their sheriff sale bid a few months earlier.⁴⁶³

⁴⁶² CSOC.RICH.001512.

⁴⁶³ Huntzinger Report 10-11.

IV. LEGAL ANALYSIS

A. Summary of Legal Analysis

The Investigative Subcommittee initially reviewed Representative Richardson's conduct pursuant to the rules and standards of conduct related to the receipts of gifts or other benefits by Members, including House Rule XXV, clause 5(a)(1)(A)(i) and paragraph 5 of the Code of Ethics for Government Service; and to the rules and standards of conduct applicable to a Member's financial disclosure obligations, including the Ethics in Government Act, House Rule XXVI, and 18 U.S.C. § 1001. During the course of the investigation, the Investigative Subcommittee discovered that Representative Richardson's mortgage application for her Sacramento property contained false information, and thus reviewed Representative Richardson's conduct pursuant to the laws and other standards of conduct relevant to mortgage fraud, including 18 U.S.C. § 1344, 18 U.S.C. § 1014, and paragraph 2 of the Code of Ethics for Government Service. The Investigative Subcommittee concluded that Representative Richardson did not violate any rules or other standards of conduct.

B. Relevant Rules and Standards of Conduct

1. House Gift Rule

House Rule XXV, clause 5(a)(1)(A)(i) states, "a Member may not knowingly accept a gift."⁴⁶⁴ A "gift" is defined as "a gratuity, favor, discount, entertainment, hospitality, loan forbearance, or other item having monetary value."⁴⁶⁵ The term "gift" includes gifts of "services, training transportation, lodging and meals, whether provided in kind, by purchase of a ticket, payment in advance or reimbursement after the expense has been incurred."⁴⁶⁶ To establish a violation under House Rule XXV, clause 5(a)(1)(A)(i), it must be shown that a Member knowingly accepted an item or service of value.⁴⁶⁷

⁴⁶⁴ House Rule XXV, cl. 5(a)(1)(A)(i).

⁴⁶⁵ House Rule XXV, cl. 5(a)(2)(A).

⁴⁶⁶ *Id.*

⁴⁶⁷ House Rule XXV, cl. 5(a)(1)(A)(i).

The restrictions of the gift rule do not apply to items “for which the [official] pays the market value.”⁴⁶⁸ However, if a Member is sold property at less than market value, or receives more than market value in selling property, that would constitute a gift.⁴⁶⁹

House Rule XXV includes several exceptions to the general prohibition on receiving gifts or other benefits.⁴⁷⁰ The list of exceptions in House Rule XXV explicitly includes bank loans, stating that Members may accept “[o]pportunities and benefits that are . . . in the form of loans from banks and other financial institutions on terms generally available to the public[.]”⁴⁷¹ As such, if a Member or staff person were given a loan at a below-market interest rate, that could constitute an improper gift.⁴⁷²

House Rule XXV also provides a general exception for benefits “resulting from outside business or employment activities of the Member . . . (or other outside activities that are not connected to the duties of such individual as an officeholder)[.]”⁴⁷³ Such benefits are only allowable if they “have not been offered or enhanced because of the official position of such individual and are customarily provided to others in similar circumstances[.]”⁴⁷⁴

2. *Ethics in Government Act*

The Ethics in Government Act of 1978 (EIGA) mandates annual financial disclosure by all senior federal personnel, including all Members and some employees of the House.⁴⁷⁵ The EIGA, as amended, provides the statutory basis for the disclosure currently required of House Members, candidates, and senior House employees. House Rule XXVI adopts Title I of EIGA

⁴⁶⁸ House Rule XXVI, cl. 5(a)(3)(A).

⁴⁶⁹ See *House Ethics Manual*, House Comm. on Standards of Official Conduct, 110th Congress, 2nd Sess. (2008 ed.) (hereinafter *2008 House Ethics Manual*) at 32.

⁴⁷⁰ House Rule XXV, cl. 5(a)(3).

⁴⁷¹ House Rule XXV, cl. 5(a)(3)(R)(v).

⁴⁷² “Gift Rule Provisions Applicable to Loans to Members, Officers, and Employees,” Memorandum for all Members, Officers, and Employees, from Committee on Standards of Official Conduct, May 23, 1997 (reprinted in *2008 House Ethics Manual*).

⁴⁷³ House Rule XXV, cl. 5(a)(3)(G)(i).

⁴⁷⁴ *Id.*

⁴⁷⁵ 5 U.S.C. app. § 101 et seq.

as a rule of the House.⁴⁷⁶ House Rule XXVI, clause 1, requires the Clerk of the House to publish a report each August 1 compiling all Member Financial Disclosure Statements filed by June 15 of that year.⁴⁷⁷ Failure to file or falsifying disclosure statements is a violation of EIGA, punishable by a civil fine up to \$50,000 per violation.⁴⁷⁸

Schedule III of Form A of the Financial Disclosure Statement instructs filers to disclose “[t]he identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or investment or the production of income, which has a fair market value which exceeds \$1,000 as of the close of the preceding calendar year.”⁴⁷⁹ The “Instruction Guide for Completing Calendar Year 2008 Financial Disclosure Statement Form A” informs filers that “the term ‘income’ means all income from whatever source derived, including but not limited to the following items: gross income derived from business (and net income if the individual elects to include it); gains derived from dealings in property; interest; rents”⁴⁸⁰ The House Ethics Manual also provides more specific guidance regarding a filer’s duty to disclose information regarding property that generates rental income:

Example 10: Member J’s home includes a basement apartment that he rents to a tenant for \$800 a month. [Member J] must disclose this rental income, as well as the property that generated it. The “asset value” is the value of the entire home, not just the basement apartment.⁴⁸¹

Schedule V of Form A of the Financial Disclosure Statement instructs filers to disclose “liabilities of over \$10,000 owed to any one creditor at any time during the reporting period by you, your spouse, or dependent child.”⁴⁸² Filers can exclude “[a]ny mortgage on your personal residence (unless it is rented out); loans secured by automobiles, household furniture, or appliances; liabilities of a business in which you own an interest; and liabilities owed to a

⁴⁷⁶ House Rule XXVI, cl. 1.

⁴⁷⁷ *Id.*

⁴⁷⁸ 5 U.S.C. app. § 104(a).

⁴⁷⁹ Instruction Guide for Completing Calendar Year 2008 Financial Disclosure Statement Form A at 10-11.

⁴⁸⁰ *Id.* at 17.

⁴⁸¹ 2008 *House Ethics Manual* at 256-57.

⁴⁸² Instruction Guide for Completing Calendar Year 2008 Financial Disclosure Statement Form A at 18.

spouse, or the child, parent, or sibling of you or your spouse.”⁴⁸³ The “Instruction Guide for Completing Calendar Year 2008 Financial Disclosure Statement Form A” clarifies, “if you show only one rental property as an asset, ‘mortgage on real property’ is sufficient. If on the other hand, you have multiple rental properties, state the property to which each obligation relates, together with the type of liability (e.g., ‘mortgage on 123 Main Street, Dover, Del’).”⁴⁸⁴

The Standards Committee issued guidance on the financial disclosure requirements for mortgages on December 30, 2008.⁴⁸⁵ In that guidance, the Standards Committee stated that “filers of a Financial Disclosure Statement are not required to disclose a mortgage on their personal residence.”⁴⁸⁶ The Standards Committee’s guidance further states that “this exclusion extends to home equity loans and home equity lines of credit on personal residences, as long as the property is used only as a personal residence and does not generate any rental income.”⁴⁸⁷

Schedule VI of Form A of the Financial Disclosure Statement instructs filers to “[r]eport the source, a brief description, and the value of all gifts totaling more than \$335 received by you, your spouse, or a dependent child from any source during the year.”⁴⁸⁸ The term “gift” is defined in these instructions as “a payment advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor.”⁴⁸⁹ The exceptions listed in these instructions do not include loans or mortgage terms.⁴⁹⁰ As noted, the Standards Committee has interpreted the term “gift” to include where a Member or

⁴⁸³ *Id.* at 19.

⁴⁸⁴ *Id.*

⁴⁸⁵ See Memorandum for all Members, Officers, and Employees, “Rules Regarding Financial Disclosure of Mortgages” Committee on Standards of Official Conduct (hereinafter Rules Regarding Financial Disclosure of Mortgages), (reprinted in House Comm. on Standards of Official Conduct, *Summary of Activities for the 110th Congress*, H. Rep. 110-938, 110th Cong., 2d Sess. 152-153 (2008)).

⁴⁸⁶ *Id.* at 152.

⁴⁸⁷ *Id.*

⁴⁸⁸ *Id.*

⁴⁸⁹ *Id.* at 20.

⁴⁹⁰ *Id.* at 21.

staff person is given a loan at a below-market interest rate, or, is allowed to purchase property on terms that are more favorable than available to the general public.⁴⁹¹

3. *False Statements*

The “Instruction Guide for Completing Calendar Year 2008 Financial Disclosure Statement Form A” also informs Members and other filers that failure to file or falsifying disclosure statements could result in prosecution for violating the False Statements Accountability Act, codified at 18 U.S.C. § 1001.⁴⁹² Any individual can be imprisoned for up to five years if,

in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, [he or she] knowingly and willfully-- (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry[.]⁴⁹³

This provision applies to Members of Congress and other employees and officers in the legislative branch regarding:

(1) administrative matters, including a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support services, or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch; or

(2) any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of the House or Senate.⁴⁹⁴

In order to prove that a person is guilty of violating the false statements act under 18 U.S.C. § 1001, the government must show that the defendant either knew the relevant statements

⁴⁹¹ 2008 House Ethics Manual at 32.

⁴⁹² Instruction Guide for Completing Calendar Year 2008 Financial Disclosure Statement Form A at 5.

⁴⁹³ 18 U.S.C. § 1001(a).

⁴⁹⁴ 18 U.S.C. § 1001(c).

were false or that the defendant acted with a conscious purpose to avoid learning the truth of the statements.⁴⁹⁵

4. *Fraud*

An individual may be prosecuted under the federal bank fraud statute if he or she:

knowingly executes, or attempts to execute, a scheme or artifice (1) to defraud a financial institution; or (2) to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises.⁴⁹⁶

Violators “shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.”⁴⁹⁷ Courts have held that the required mental state to prove bank fraud is knowledge of falsity and the intent to influence the actions of a financial institution concerning a loan or some other transaction.⁴⁹⁸ As such, in order to prove that a person is guilty of bank fraud under 18 U.S.C. § 1344, the government must show that the defendant either knew the relevant statements were false or that the defendant acted with a conscious purpose to avoid learning the truth of the statements.⁴⁹⁹

The federal mortgage fraud statutes also create criminal and civil penalties for “[w]hoever knowingly makes any false statement or report, or willfully overvalues any land, property or security, for the purpose of influencing in any way the action of ... Federal credit union, an insured State-chartered credit union, [or] any institution the accounts of which are insured by the Federal Deposit Insurance Corporation.”⁵⁰⁰ The elements of this crime are: (1) that defendant made a false statement or statements to the bank; (2) that defendant made the false

⁴⁹⁵ See, e.g., *U.S. v. Dick*, 744 F.2d 546 (7th Cir. 1984); see also, *U. S. v. West*, 666 F.2d 16 (2d. Cir. 1981).

⁴⁹⁶ 18 U.S.C. § 1344.

⁴⁹⁷ *Id.*

⁴⁹⁸ *U. S. v. Erskine*, 588 F.2d 721 (9th Cir. 1978).

⁴⁹⁹ See e.g., *U.S. v. Sandlin*, 589 F.3d 749 (5th Cir. 2009); see also, *U. S. v. West*, 666 F.2d 16 (2d. Cir. 1981).

⁵⁰⁰ 18 U.S.C. § 1014.

statement or statements in order to influence the bank's actions; (3) that statement or statements were false as to material facts; and (4) that defendant made false statements knowingly.⁵⁰¹

5. Code of Ethics for Government Service

Under paragraph 2 of the Code of Ethics for Government Service ("Code of Ethics"), "any person in government service should ... Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion."⁵⁰² Under paragraph 5 of the Code of Ethics, "any person in government service should ... never accept for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties."⁵⁰³

The Code of Ethics does not create a new penalty for a Member's violation, "nor does it impose any positive legal requirement for specific acts or omissions."⁵⁰⁴ The Code of Ethics was created to "reaffirm[] the traditional standard-that those holding public office are not owners of authority, but agents of public purpose-concerning which there can be no disagreement and to which all Federal employees unquestionably should adhere."⁵⁰⁵ In contrast to statutes, which can be objectively tested, the standards outlined in the Code of Ethics "can only be stated in subjective language and must rely on the facts determined in each situation. If it should be necessary to measure an allegation against a standard, that measurement will be as meaningful as the depth to which the measuring body draws out the facts and nuances."⁵⁰⁶ As such, the Committee has found that a Member can violate a provision of the Code of Ethics, even if a Member has not acted in violation of any law.⁵⁰⁷

⁵⁰¹ See, e.g., *U.S. v. Smith*, 838 F.2d 436 (10th Cir. 1988), *rehearing denied, certiorari denied* 490 U.S. 1036.

⁵⁰² Code of Government Ethics, paragraph 2.

⁵⁰³ Code of Government Ethics, paragraph 5.

⁵⁰⁴ H. Rep. No. 85-1208, 85th Cong. 1st Sess. (1957).

⁵⁰⁵ *Id.*

⁵⁰⁶ H. Rep. No. 90-1176, 90th Cong. 2d Sess. (1968).

⁵⁰⁷ See e.g., House Comm. on Standards of Official Conduct, *In the Matter of a Complaint Against Representative Robert L. F. Sikes*, H. Rep. No. 94-1364, 94th Cong., 2d Sess. (1976).

6. Generally Applicable House Rules

In addition to the rules and standards of conduct discussed above, House Rule XXIII, clauses 1 and 2, which are generally applicable to any conduct by Members, may also be relevant to Representative Richardson's conduct in this matter.

Under House Rule XXIII, clause 1: "A Member, Delegate, Resident Commissioner, officer, or employee of the House shall behave at all times in a manner that shall reflect creditably on the House." Historically, the Standards Committee has invoked clause 1 to review conduct that encompasses violations of law and abuses of a Member's official position.⁵⁰⁸ "Clause 1 was adopted in part, so that the Committee, in applying the Code, would retain the ability to deal with any given act or accumulation of acts which, in the judgment of the committee, are severe enough to reflect discredit on the Congress."⁵⁰⁹

Under House Rule XXIII, clause 2, a Member must "adhere to the spirit as well as the letter" of the House Rules.⁵¹⁰ House Rule XXIII, clause 2, was drafted to "provide the House the means to deal with infractions that rise to trouble it without burdening it with defining specific charges that would be difficult to state with precision."⁵¹¹ The practical effect of House Rule XXIII, clause 2, has been to provide a device for construing other provisions of the Code of Conduct and House Rules.⁵¹² This rule has been interpreted to mean that a Member or employee may not do indirectly what the Member or employee would be barred from doing directly.⁵¹³ In other words, the House Rules should be read broadly, and a narrow technical reading of the House Rules should not overcome its "spirit" and the intent of the House in adopting the rules.⁵¹⁴

⁵⁰⁸ 2008 *House Ethics Manual* at 16.

⁵⁰⁹ House Comm. on Standards of Official Conduct, *In the Matter of Representative E.G. "Bud" Shuster*, H. Rep. No. 106-979, 106th Cong., 2d Sess (2000).

⁵¹⁰ House Rule XXIII, cl. 2.

⁵¹¹ 114 *Cong. Rec.* 8778 (Apr. 3, 1968); *see also* 114 *Cong. Rec.* 8799 (statement of Representative Teague, member of the House Comm. on Standards of Official Conduct, 90th Cong.).

⁵¹² 2008 *House Ethics Manual*, at 17.

⁵¹³ House Select Comm. on Ethics, *Advisory Opinion 4*, H. Rep. No. 95-1837, 95th Cong., 2d Sess. 61-62 (1979).

⁵¹⁴ *Id.*

However, House Rule XXIII, clause 2, has not only been used as an aid to interpreting other House rules, but has been used in recommending expulsion of Members for various reasons.⁵¹⁵

C. Discussion

1. Representative Richardson Complied with her Financial Disclosure Requirements

During the Standards Committee's initial investigation, it reviewed Representative Richardson's mortgage application for her Sacramento property. That review revealed that documents were submitted to Washington Mutual asserting that Representative Richardson was receiving rental income for her San Pedro and Long Beach properties.⁵¹⁶ Representative Richardson had never disclosed any such rental income on her Financial Disclosure Statements, nor did she list the mortgages on her San Pedro and Long Beach properties as liabilities on her Financial Disclosure Statements.⁵¹⁷ If Representative Richardson was receiving rental income for her San Pedro and Long Beach properties, this failure to disclose would have violated the rules and standards related to Representative Richardson's financial disclosure obligations.⁵¹⁸ If Representative Richardson was not receiving rental income for her San Pedro and Long Beach properties, she would have no disclosure obligations with respect to the properties.⁵¹⁹

Through the course of its investigation, the Investigative Subcommittee determined that Representative Richardson had, in fact, never received any rental income for her San Pedro and Long Beach properties.⁵²⁰ Instead, the record before the Investigative Subcommittee demonstrated that Representative Richardson's mortgage application for her Sacramento

⁵¹⁵ See, e.g., House Comm. on Standards of Official Conduct, *In the Matter of Representative Michael J. Myers*, H. Rep. No. 96-1387 96th Cong., 2d Sess. 5 (1980) (Member convicted of bribery); House Comm. on Standards of Official Conduct, *In the Matter of Representative Raymond F. Lederer*, H. Rep. No. 97-110 97th Cong., 1st Sess. 16 n.8 (1981) (Member convicted of bribery); House Comm. on Standards of Official Conduct, *In the Matter of Representative Mario Biaggi*, H. Rep. No. 100-506, 100th Cong., 2d Sess. 7 (1988) (Member convicted of accepting illegal gratuities); House Comm. on Standards of Official Conduct, *In the Matter of Representative James A. Traficant, Jr.*, H. Rep. No. 107-594, 107th Cong., 2d Sess. Vols. I-VI (July 19, 2002) (Member convicted of conspiring to violate the bribery statute, accepting gratuities, obstructing justice, conspiring to defraud the United States, filing false income tax returns, and racketeering).

⁵¹⁶ See, e.g., CSOC.RICH.001444 to CSOC.RICH.001462; CSOC.RICH.002153 to CSOC.RICH.002160.

⁵¹⁷ CSOC.RICH.006436 to CSOC.RICH.006454.

⁵¹⁸ See 5 U.S.C. app. 4, § 101 et seq.; House Rule XXVI; Instruction Guide for Completing Calendar Year 2008 Financial Disclosure Statement Form A at 10-11, 18-19.

⁵¹⁹ *Id.*

⁵²⁰ See Richardson Int. Tr. at 11 and 23; CSOC.RICH.006436 to CSOC.RICH.006454; Thomas Int. Tr. at 22.

property contained false information, created and provided by her mortgage broker without her knowledge.⁵²¹ As such, the Investigative Subcommittee concluded that Representative Richardson did not violate any rules, statutes, or other standards of conduct related to her financial disclosure obligations.

2. Representative Richardson Did Not Commit Mortgage Fraud

The record before the Investigative Subcommittee shows that criminal mortgage fraud was committed when Representative Richardson's mortgage application was submitted to Washington Mutual.⁵²² The statements in Representative Richardson's mortgage application regarding her rental income were false,⁵²³ were made in order to influence Washington Mutual,⁵²⁴ and were material to her loan application.⁵²⁵ Thus, if Representative Richardson knowingly submitted the false information in a mortgage application, she would have committed fraud.⁵²⁶

However, the Investigative Subcommittee concluded that Representative Richardson did not knowingly make the false statements.⁵²⁷ Instead, the Investigative Subcommittee concluded that Representative Richardson was the victim of mortgage fraud, not the perpetrator of the fraud. The Investigative Subcommittee based this conclusion on Representative Richardson's statements that she had no knowledge of the fraud,⁵²⁸ and on the statements of Representative Richardson's mortgage broker, who admitted to the fraud.⁵²⁹ The Investigative Subcommittee further based its conclusion on the analysis conducted by the Investigative Subcommittee's

⁵²¹ See Thomas Int. Tr. at 21-24.

⁵²² CSOC.RICH.006436 to CSOC.RICH.006454; Richardson Int. Tr. at 11; Thomas Int. Tr. at 21-24.

⁵²³ Thomas Int. Tr. at 21-24.

⁵²⁴ *Id.*

⁵²⁵ Huntzinger Report at 5-7.

⁵²⁶ See, e.g., *U.S. v. Smith*, 838 F.2d 436 (10th Cir. 1988), *rehearing denied, certiorari denied* 490 U.S. 1036.

⁵²⁷ See, e.g., Richardson Int. Tr. at 22; Thomas Int. Tr. at 21-24; Huntzinger Report at 5-7.

⁵²⁸ Richardson Int. Tr. at 22.

⁵²⁹ Thomas Int. Tr. at 21-24.

independent mortgage consultant, who believed this case was one of fraud for profit by the broker and not one of fraud for housing by the buyer.⁵³⁰

3. *Representative Richardson Did Not Receive an Improper Gift or Other Benefit in Connection with the Hold on the Foreclosure Sale of Her Sacramento Property*

If Washington Mutual had placed the hold on the foreclosure sale of Representative Richardson's property as a special favor to Representative Richardson because she was a Member of Congress, that hold would be considered an improper gift or other benefit under the applicable rules or other standards of conduct.⁵³¹ However, if Washington Mutual placed the hold on the foreclosure sale of Representative Richardson's property in the ordinary course of its business, the hold would not be considered an improper gift or other benefit.⁵³²

The Investigative Subcommittee concluded that Representative Richardson did not receive an improper gift or other benefit when Washington Mutual placed a hold on the foreclosure sale of her Sacramento property.⁵³³ The Investigative Subcommittee based this conclusion on the testimony of various former employees of Washington Mutual stating that Representative Richardson's financial situation had changed such that a hold was appropriate and that she did not receive any special treatment.⁵³⁴ The Investigative Subcommittee further based its conclusion on the analysis conducted by Mr. Huntzinger, the Investigative Subcommittee's independent mortgage consultant. Mr. Huntzinger concluded that Washington Mutual's decision to place the hold on the foreclosure sale of Representative Richardson's property was commercially reasonable and did not appear to be a special favor to Representative Richardson because she was a Member of Congress.⁵³⁵ Instead, Mr. Huntzinger determined that Washington Mutual placed the hold on the foreclosure sale of Representative Richardson's

⁵³⁰ Huntzinger Report at 5-7. The Investigative Subcommittee further notes that Representative Richardson provided the Investigative Subcommittee with communications between Representative Richardson's counsel and an Assistant United States Attorney, in which an Assistant United States Attorney stated that the government was declining to prosecute Representative Richardson for fraud. *See* Letter from Daniel Shallman to Dorothy C. Kim, March 30, 2010; Email from Dorothy C. Kim to Daniel Shallman, March 31, 2010.

⁵³¹ House Rule XXV, cl. 5(a)(1)(A)(i).

⁵³² House Rule XXV, cl. 5(a)(3)(R)(v).

⁵³³ *Id.*

⁵³⁴ *See, e.g.,* Dolan Int. Tr. at 8-9; Mathis Int. Tr. at 10.

⁵³⁵ Huntzinger Report at 8.

property in the ordinary course of its business, and treated Representative Richardson the same as it would any other similarly situated customer.⁵³⁶

4. *Representative Richardson Did Not Receive an Improper Gift or Other Benefit in Connection with the Rescission of the Foreclosure Sale of Her Sacramento Property*

If Washington Mutual had rescinded the foreclosure sale of Representative Richardson's Sacramento property as a special favor to Representative Richardson because she was a Member of Congress, that rescission would be considered an improper gift or other benefit under the applicable rules or other standards of conduct.⁵³⁷ However, if Washington Mutual rescinded the foreclosure sale of Representative Richardson's Sacramento property in the ordinary course of its business, the rescission would not be considered an improper gift or other benefit.⁵³⁸

The Investigative Subcommittee concluded that Representative Richardson did not receive an improper gift or other benefit when Washington Mutual rescinded the foreclosure sale of her Sacramento property.⁵³⁹ The Investigative Subcommittee based this conclusion on the testimony of various former employees of Washington Mutual stating that the decision to rescind the foreclosure sale was based on Washington Mutual's desire to fix its original mistake in foreclosing on the property after telling Representative Richardson that a hold was placed on the foreclosure sale and that Representative Richardson did not receive any special treatment.⁵⁴⁰ The Investigative Subcommittee further based its conclusion on the analysis conducted by Mr. Huntzinger, the Investigative Subcommittee's independent mortgage consultant. Mr. Huntzinger concluded that Washington Mutual's decision to rescind the foreclosure sale of Representative Richardson's property was commercially reasonable and did not appear to be a special favor to Representative Richardson because she was a Member of Congress.⁵⁴¹ Instead, Mr. Huntzinger determined that Washington Mutual rescinded the foreclosure sale of Representative

⁵³⁶ *Id.*

⁵³⁷ House Rule XXV, cl. 5(a)(1)(A)(i).

⁵³⁸ House Rule XXV, cl. 5(a)(3)(R)(v).

⁵³⁹ *See, e.g.*, Thorn Int. Tr. at 62-63; Berens Int. Tr. at 15-17.

⁵⁴⁰ *See, e.g.*, Thorn Int. Tr. at 62-63; Berens Int. Tr. at 15-17.

⁵⁴¹ Huntzinger Report at 10.

Richardson's property in the ordinary course of its business, and treated Representative Richardson the same as it would any other similarly situated customer.⁵⁴²

5. Representative Richardson Did Not Receive an Improper Gift or Other Benefit in Connection with the Modification of the Loan for Her Sacramento Property

If Washington Mutual had modified the loan for Representative Richardson's Sacramento property as a special favor to Representative Richardson because she was a Member of Congress, that loan modification would be considered an improper gift or other benefit under the applicable rules or other standards of conduct.⁵⁴³ However, if Washington Mutual modified the loan for Representative Richardson's Sacramento property in the ordinary course of its business, the loan modification would not be considered an improper gift or other benefit.⁵⁴⁴

The Investigative Subcommittee concluded that Representative Richardson did not receive an improper gift or other benefit when Washington Mutual modified the loan for her Sacramento property. The Investigative Subcommittee based this conclusion on the testimony of various former employees of Washington Mutual stating that the terms of the loan modification were based entirely on Washington Mutual's impartial "decisioning tool" and that Representative Richardson did not receive any special treatment.⁵⁴⁵ The Investigative Subcommittee further based its conclusion on the analysis conducted by Mr. Huntzinger, the Investigative Subcommittee's independent mortgage consultant. Mr. Huntzinger concluded that Washington Mutual's decision to modify the loan on Representative Richardson's property was commercially reasonable and did not appear to be a special favor to Representative Richardson because she was a Member of Congress.⁵⁴⁶ Instead, Mr. Huntzinger determined that Washington Mutual modified the loan on Representative Richardson's property in the ordinary course of its business, and treated Representative Richardson the same as it would any other similarly situated customer.⁵⁴⁷

⁵⁴² *Id.*

⁵⁴³ House Rule XXV, cl. 5(a)(1)(A)(i).

⁵⁴⁴ House Rule XXV, cl. 5(a)(3)(R)(v).

⁵⁴⁵ *See, e.g.*, Owen Int. Tr. at 30-31; Mathis Int. Tr. at 35.

⁵⁴⁶ Huntzinger Report 10-11.

⁵⁴⁷ *Id.*

D. Conclusion

The Investigative Subcommittee found that Representative Richardson did not violate any rules or other standards of conduct in connection with her Sacramento property. Instead, the Investigative Subcommittee concluded that Representative Richardson complied with her financial disclosure obligations. The Investigative Subcommittee further found that Representative Richardson was the victim of mortgage fraud. Finally, the Investigative Subcommittee concluded that Representative Richardson did not receive any improper gifts from Washington Mutual in connection with her Sacramento property.

V. RECOMMENDATIONS

The Investigative Subcommittee found that Representative Richardson did not collect rent on her residential properties in San Pedro, California, and Long Beach, California. For this reason, the Investigative Subcommittee concluded that Representative Richardson did not violate the Ethics in Government Act in connection with her financial disclosure statements relating to her California properties. Instead, the Investigative Subcommittee concluded that Representative Richardson's mortgage broker, without her knowledge, fraudulently submitted false rental income information with her loan application for her Sacramento property.

The Investigative Subcommittee further found that Representative Richardson did not knowingly accept a gift from Washington Mutual or violate any applicable standard of conduct in connection with the purchase of, foreclosure on, rescission of foreclosure sale for, or modification of loan terms for a residential property she owns in Sacramento, California. Instead, the Investigative Subcommittee found that Washington Mutual's decisions to offer Representative Richardson a loan on the property, to place a hold on the foreclosure sale of the property, to rescind the foreclosure sale of the property, and to modify the loan for the property were each made in the ordinary course of Washington Mutual's business, and were commercially reasonable based on the information before Washington Mutual at that time.

Based on these findings, the Investigative Subcommittee declined to adopt a Statement of Alleged Violation, and unanimously decided to issue this report pursuant to Standards Committee Rule 19(g).

The Investigative Subcommittee further decided to make the following recommendations:

1. The Investigative Subcommittee recommends that the Standards Committee dismiss the review of the allegations in OCE's Report and Findings that "Representative Richardson violated House Rule 25, clause 5(1)(A)(i) and clause 5(3)(R)(v) by knowingly

receiving preferential treatment from Washington Mutual Bank in the form of the postponement and/or rescission of the foreclosure sale of her home.”⁵⁴⁸

2. The Investigative Subcommittee further recommends that the Standards Committee dismiss the review of the allegations in OCE’s Report and Findings that “Representative Richardson violated House Rule 26 (financial disclosure) by failing to disclose her Sacramento home as an asset and her mortgage liability on her financial disclosure forms.”⁵⁴⁹

3. The Investigative Subcommittee further recommends that the Standards Committee dismiss the review of the allegations in OCE’s Report and Findings that “Representative Richardson violated House Rule 25, clause 5(1)(A)(i) and clause 5(3)(R)(v) by knowingly receiving professional yard care services from her neighbors. Further, even if a violation occurred it would be de minimis.”⁵⁵⁰

4. The Investigative Subcommittee further recommends that the Standards Committee refer the mortgage fraud issue involving Charles Thomas in connection with Representative Richardson’s mortgage application, in violation of 18 U.S.C. § 1014, and any other statute, to the U.S. Department of Justice for such action as the Department deems necessary and appropriate.

5. The Investigative Subcommittee further recommends that, pursuant to Standards Committee Rule 21(a), the Standards Committee transmit this Report to the House and approve its dissemination to the public.

⁵⁴⁸ Report and Findings at 5.

⁵⁴⁹ *Id.* at 6.

⁵⁵⁰ *Id.* at 7.