

June 10, 2012

Honorable Randy Neugebauer, Chairman
House Financial Services
Oversight and Investigations Subcommittee
House of Representatives
Washington D.C. 20515

Dear Chairman Neugebauer
and Members of the Committee:

RE: Testimony of M. Todd Chrisley and the FDIC, Lennar Corp and Subsidiary Rialto Capital Assets Management, Inc. and the PPIP referred to as Multibank.

Mr personal situation involves 3 different loans and 2 different failed banks, Integrity Bank and Haven Trust Bank, which failed in August and December 2008, respectively. While I do have issues of material fact against both failed institutions, it is not my intention to adjudicate my case before this Committee. Rather, I want to bring to the Committee's attention the process and treatment to which Borrowers and Guarantors are routinely subjected by the FDIC and their surrogate partners, which is wholly unnecessary, which demonstrate that the FDIC fails to comprehend or accept that Borrowers and Guarantors are equally victims as are depositors in bank failures and operates on historical behaviors that are legally, morally and ethically questionable and at times are demonstrably illegal.

General Observations:

1. When the transactions were entered into by the original Lenders and Borrowers, the transaction did not contemplate or identify the possibility of the contract being taken over by a Federal Agency with otherwise law defying superpowers, that would alter the terms of the contract. Loan documents typically allow for their future assignment and sale but presumably to other Lenders, prepared to step into the original Lender's shoes and perform the contract and be required to do so by its terms and be liable for any recourse the Borrower may have back to the original Lender. That is the living embodiment to meet the "Good Faith" standard required, which cannot be waived under the Uniform Commercial Code, for a valid contract.

The FDIC is injected into loan contracts as the Lender party and it has absolutely no intentions of honoring contracts or being liable for the acts of the failed bank. By injecting the FDIC into contracts without the knowledge or consent of the Borrowers and Guarantors, you have fundamentally altered the contract relationship. In light of the acts of the FDIC and their partner Rialto / Lennar that have been independently reported by thousands by ordinary citizen borrowers and guarantors, you can readily see that the power of the Federal Agency is being abused and used routinely against the American public, which Congress is sworn to defend.

With the FDIC, they can apparently do whatever they want under a special set of rules and it appears that the court system is ill-equipped to deal with the difference. If the Borrower has a dispute with the original Lender or subsequent Lender (who purchased the note), then one set of rules apply. However, let the FDIC step in and all the rules change. It is often euphemistically referred to as "the will of the People" because Congress initiated the Agency and their first super-statutes in 1933.

Questions: *Since the Congress gave the FDIC superpowers to protect depositors of failed banks, why did the Congress not provide any safeguards or protections for Borrowers and Guarantors of loans at failed banks?*

Can Congress or this Committee initiate corrective legislation to protect Borrowers and Guarantors of failed banks going forward?

Can Congress intervene in the FDIC's use and abuse of their Congressional granted power in these PPIPs and bring a halt to litigation and enforcements of judgments until Congress can sort thru the issues and help restore some sort of equitable resolution to all citizens impacted by the FDIC and their PPIP partners?

If the problem is too large or complex in scope to protect Borrowers and Guarantors in detail (like depositors), then should not the super-statutes recognize the disparity and provide a similar set of group expectations for the Borrower class of the failed bank? Perhaps, in the event of bank failure and no resulting bank steps-up to acquire the failed institution and honor all of its assets (loans), then perhaps the resolution of the assets by the FDIC Receiver should be limited to realizing on the collateral only. After all, at that point, the Borrower has lost his / her entire investment (not just the opportunity) and the under-lying asset securing the loan.

Lennar Chairman Miller stated in his testimony that the loans failed, which in turn caused the banks to fail. He therefore, implies the conclusion that Borrowers are the cause of the bank's failure. He simply cannot make that broad pronouncement (1-2-3 cause and effect).

First of all, many thousands of the Borrowers in these PPIPs did not receive the funding promised by the contract from the Lender and were current and not in default when the bank failed. **Secondly**, it fails to assign any responsibility to the bankers running the bank for their acts and decisions and the FDIC and Rialto hide behind a principle called D'Oench Dhume. **Thirdly**, it does not recognize that the FDIC as regulator either did a poor job of regulating the industry or conversely, that the problem was so large and unavoidable for anyone to foresee, that no one can be held accountable. **Fourth**, his statement discounts the spiral down effect of the market in a mass panic, which is driven heavily by the FDIC's policies and practices on both Borrowers of failed banks and the living banks that live in fear of being the victim of the Regulator, which combine to freeze lending and destroy market values of property. ***Yet the FDIC and Lennar are very quick to divert responsibility and lay the blame solely on Borrowers.*** If the regulators could not see it coming or performed their job poorly (in reality both) and if the Congress does not want to hold the Federal Agency accountable, then the FDIC should not be allowed to exact a disproportionate share of the burden or penalty against Borrowers or Guarantors that they and the failed bank are absolved from.

Director Edwards of the FDIC stated that “only 4%” of all failed banks have their assets resolved by selling the assets to 3rd party investors. Director Edwards said that selling the loans to investors was necessary when failing banks had “limited franchise” value. So first he excuses the problem as perhaps being insignificant because in his estimation, it only occurs 4% of the time and secondly he claims that they had no other choice because the banks involved had limited franchise value, therefore, no bank wanted to buy them.

Questions: *Is it the Borrowers' collective fault that their bank had limited franchise value in the eyes of the FDIC or greater undefined market of bank buyers?*

Would it only make a difference, if 10% or more of all failed banks had their assets resolved by selling them to 3rd parties as opposed to being assumed by another bank? Why is he allowed to be so dismissive, when people are fighting for their lives financially?

When are Borrowers and Guarantors equally important citizens of The United States of America as depositors of failed banks?

Where in the Constitution does any branch of the Federal Government get to pick winners and losers, let alone an agency of the Federal Government?

Do we not have a "Just Compensation Clause" Article 5 of the Bill of Rights, that protects every citizen, not just depositors, against the government taking their assets without due process and fair compensation in return? Make no mistake, the FDIC and Lennar / Rialto are making every effort to take ever asset they can from citizen borrowers without regard to the asset's relationship to the loan at the failed bank and they are trying to hide behind Congress to do it For Profit.

Director Edwards in his testimony referred to \$100,000,000 as a small amount to the FDIC. Just how far out of touch with reality is Director Edwards and the FDIC? I can tell you as someone being sued for a total of \$20,000,000 by the FDIC and Rialto, I consider \$20MM to be a lot of money for anyone and apparently I don't even make rounding error for the FDIC. If they are that cavalier about it, why am I being treated as a bad person?

2. **Stuart Miller CEO Lennar Corp** testified that the PPIP documents, procedures, terms and conditions, fees and relationship with the Manager of the PPIP were all the responsibility of and prepared by the FDIC and it was on that basis that they bid.

You have but to look at the Loan Contribution and Sale Agreement to see that the FDIC structured the deal to prevent the note purchaser from doing anything but suing for collection under the notes and guarantees purchased. The terms of that agreement define the expectations of the Note Seller (FDIC) on the Note Purchaser (Multibank including Rialto). If they work with a Borrower or forebear any of the notes terms / payments or foreclose or advance additional dollars under the note to Borrower or accept a deed in lieu or short sale, then they lose the benefits of the agreement from the Note Seller (FDIC). They can be replaced in the deal all together for failure to perform what the Note Seller required.

The FDIC agrees to fund any deficiency realized when the collateral is eventually foreclosed upon. That's a big benefit because the collateral deficiency will grow significantly as these loans drift thru the legal process and the Note Purchaser and Rialto have absolutely no risk, provided they do the Note Seller's (FDIC) bidding. The deficiency goes up over time due to interest accrual, legal fees, management fee to Rialto, etc. My own loans had an outstanding principal balance of \$15.4MM and they have accrued it up to \$20MM.

Rialto is paid ½ percent fee on the outstanding balance of all loans managed by them, as part of the deal, provided they do the FDIC's bidding.

They have no incentive to settle and they are not allowed to settle by the terms of the deal crafted by the FDIC.

Did Congress authorize the FDIC to guarantee all of that extra debt? By running up the bill and guaranteeing its payment to Multibank, either the banking industry premiums must pay it or it will come from the American tax payer. It appears far more likely that it will have to be borne by the American tax payer.

Since the Agency is accountable to and reports to Congress, was the House Financial Services Committee asked to consider and approve this expense?

If they have increased the outstanding balance of the loans by way of accrual, by 30%, doesn't that mean that the total PPIP of \$3 billion now has a deficiency balance that will be calculated against a new outstanding balance of \$3.9 billion or more?

How do you resolve or get rid of an asset by increasing your cost in it?

Multibank, the Note purchaser, uses tax payer dollars borrowed from the US Treasury thru the FDIC to pay the legal expenses of Multibank to sue Borrowers and pay a fee to Rialto for managing the process. They use our own money to sue us. We had no choice in paying taxes and our tax money should not be directed against those forced to pay to inflict further damage on the source of the money.

Stuart Miller testified that Rialto has a policy to be open and transparent and participatory. He stated that his employees are communicative with and treat borrowers respectfully.

You will readily see by my testimony that nothing is further from the truth as I was threatened by Rialto employees and or their agents via numerous phone calls at night to my home, that they would never settle with me as long as Bryan Knight was my attorney or if I cooperated with Chuck Cushman and the American Land Rights Activist group. I was left with no choice but to change attorneys in an effort to continue to find a way to communicate with and settle my loans with these agents of the Federal Agency. So much for positive, transparent and respectful communications. It is also illegal and a violation of the Fair Debt Collection and Practices Act.

*Furthermore, Rialto and their attorneys and the FDIC have refused to provide requested documents in Discovery, which are critical to my defense in litigation. **That is not legal either yet they are being allowed to get away with the tactic and will force me to continue my defense on appeal.** Again, is this positive, transparent, respectful, fair or equitable?*

My Personal Story:

As I said originally, it is not my intention to adjudicate the specifics of my case here but rather to describe and convey specific treatment and or dealing with the FDIC and its partner Rialto. My case involves 3 loans at 2 different banks, which have been combined into 1 lawsuit for collection.

FDIC

In dealing with the FDIC before the loans were sold to Multibank and Rialto, you are forced to deal with contractors that have no authority to commit anything to you. You are always dealing with third parties, which is very time consuming and results in a lot of false starts. My banks failed within 4 months of each other and very quickly all 3 loans were consolidated. I was proactive and met with the

FDIC's contractors and worked cooperatively with them to find a satisfactory resolution to the loans in question. In particular, I worked with an FDIC representative named Henry Sparrow.

Prior to the sale of the notes to Multibank, Henry Sparrow explained to me that he had received approval to settle all 3 loans totaling \$15.4MM for payment of \$5.7MM. He claimed that he had received verbal approval from the FDIC in Dallas that he could accept that number. I asked if we would receive a 1099 for Debt Cancellation Income from the FDIC. His response was "that was mere paperwork" and that there would be "no 1099 issued." I was pretty excited at the prospect of putting this behind me and my attorney called for weeks after to inquire about the final arrangements and approval of the offer from the FDIC in Dallas, TX. We could never get an answer, clarification or confirmation of the status of our settlement plan. Then we saw in the news that the FDIC had sold \$3.02B in loans to Multibank in partnership with Rialto Capital Asset Management. It was following that announcement that we learned the FDIC had sold our note and stone-walled us on a settlement, which I and my CFO were told were approved by the FDIC.

Instead of pursuing a settlement in Good Faith, the FDIC chose to sell off my note to Multibank. Since Rialto only paid 20 cents on the dollar for their 40% participation in Multibank and all other money was either donated by the FDIC as capital or borrowed from the US Treasury as debt, the FDIC only realized 20 cents for the sale of notes to Multibank, that did not increase their cost or indebtedness in the assets. However, the settlement offer of \$5.7MM represents 37 cents on the dollar of my notes and therefore, is a greater return / better result for the FDIC. The FDIC chose a path with a lessor return rather than settle with a Borrower on a plan developed by the FDIC!

The net result was that upon selling the note to Multibank and Rialto, my situation went from bad to worse and very quickly deteriorated into a law suit for collection with a variety of bad acts committed by Rialto and their representatives.

Rialto

Early on, Rialto sent a pre-negotiation letter out for execution that required amongst other things that I forever release them and the note-holders that preceded them and the note-holders that might come after them from liability. The letter states that if you sign the letter, you cannot use any of your Loan Documents, any previous negotiations, communications or agreements or conversations or any information given or any that follow signing the letter against them in a court of law. All items past, present and future would be considered privileged and "compromise and settlement" and not Discoverable by a court.

So here your first introduction to these people is they try to trick you into signing a letter that forever waives your right to defend yourself and your right to use the loan documents and other evidence for that purpose, for the purpose of having a conversation only – no promises, and it is binding on your heirs as well. No I did not agree to the terms of their letter. I was dealing with Rialto Director Matt Shulman at this point.

I guess that is Mr. Miller's policy of transparent and respectful.

Next they asked "so what if I told you that we can finance this project for you?" My response was "great." "We can provide the engineering and knowledge of the project and property and the sweat equity, if you will provide the financing." Rialto responded by saying "well that's probably something we can do." The next day he calls back and indicates that the project is too big and they can't do what was suggested the day before. Nisu Mehta then began calling for financial statements and other

information. I explained that we needed to arrive at some sort of settlement plan first. It was at this point that Rialto elected to sue for collection.

I guess that is what Mr. Miller refers to as being communicative and respectful.

The next series of acts from Rialto are really infuriating and illegal, a violation of Federal Law, Fair Debt Collection and Practices Act.

Bryan Knight, an Atlanta attorney with whom I had been working, had written an article(s) for American Land Rights Activists for publishing in 2011. Within a 2 week period following the publication of that article, I received 2 phone call at night at my home and my father received a phone call during the same time threatening both of us. The calls were received around 8:30-9PM each time.

The first call to my house, the callers phone number was blocked by Privacy Director on the caller ID of my phone. I pushed the button on the phone to try and determine who it was and the caller was announced simply as "Jerry." The caller said "You need to get your attorney in-line and get the statement off of the internet that he has written for American Land Rights and if not, there will never be any settlement with Michael Chrisley (that's me, Todd is my middle name) on any loans that Rialto Capital services."

The next phone call 10 days – 2 weeks later. Again the caller did not identify himself. My wife answered the phone. He asked to speak to me by name about the West Conway property. When I come to the phone, the caller says "You obviously ignored the first warning that you received. So now we will destroy you." I said "who's calling?" The caller responds saying "You were instructed on what was needed to take place regarding Rialto Capital. You chose to ignore it. So now we will destroy you."

During this same period they called my 77 year old father. I own his house. The caller said "Has your son told you that you are going to be moved to the street due to the debt that he owes Rialto Capital?"

This behavior is intended to intimidate and highly illegal. Does the FDIC, a Federal Agency, condone the use of these tactics and their partner's violation of Federal law?

I guess this punctuates Mr. Miller's sense of respect for Borrowers.

The last example relates to documentation in the possession of either the FDIC or Rialto or Wells Fargo as document custodian. The documentation is needed for my defense and to prove my claims on 1 of my loans. Rialto and Multibank have refused to produce the documentation under the Rules of Discovery and the judge in the case is inclined to let them get away with that. That is not legal under the law either. Just one more instance of how the FDIC, their partners and the courts are doling out justice.

These people use every dirty trick in the book and will stop at nothing to achieve their ends. Any means will do and they are allegedly doing it under the Aegis of Congress via the FDIC.

The courts are not equipped to deal with the situation and frankly it appears that these judges are resentful of dealing with simple suits on notes so they blow them out to clear their calendars without regard to the defendants.

Please help us, all of us, deal with the Federal Regulator and their partners. The FDIC controls the transaction and the Note Purchaser and the entities created to sue the Borrowers and Guarantors. They are accountable to you. Only Congress and the House Financial Services Committee can stem the abuse of power as demonstrated by their collection activities, sort this out and get to the bottom of their actions and its effect not only on Borrowers and Guarantors as American citizens, but all Americans living within the trade areas of the failed banks and the impact of the FDIC on the US economy. The FDIC is killing communities, market values, jobs, the economy and attempting to wipe out an entire generation of entrepreneurs, that this country needs to create jobs by trying to prevent them from returning to business, ruining their credit and taking all of their assets.

Respectfully,

Todd Chrisley

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