

*Ralph and Eleanor Schiano*

**Redacted**

April 14, 2020

Consumer Financial Protection Bureau - Via email  
Attn: Kathleen L. Kraninger

RE: CFPB-2020-0013

Dear Ms. Kraninger and CFPB Task Force:

We have been in litigation for fifteen years. We have never missed a payment since purchase of our home in 1987. We are now senior citizens. Despite never missing a payment, past payoffs, by refinance, and early payment on last refinance in October 2004, vanished into thin air. Despite our proof of all past payoffs, and payments, by cancelled checks, we have been tossed around to mediators and a special master by the Court. Our N.J. Federal District Court Docket Number is **Redacted**. It is massive. The Court dismissed our case last August due solely to claimed lack of diversity jurisdiction. We believe this is in grave error and now we are in appeal at the Third Circuit Court of Appeals in Philadelphia -- Docket **Redacted**. At this same time, a lien release was recorded in our County in June 2019. Ocwen Loan Servicing LLC claims this lien release is in error and filed a claim to reinstate the lien in the New Jersey Chancery state court. We responded with counter-claims as the validity of the recorded lien has been question for over a decade. Discovery has been woefully insufficient. We have not been able to refinance for many years due solely to "title issues." We have home equity, and despite our desire for clear and valid title with a new refinance, we were denied modification from a near nine percent interest rate due to home equity. We continue to pay that high rate, for many years, for fear of foreclosure that is routinely granted, despite fraudulent documents, across the country. When will our government address these issues? Thank you for the opportunity to present our issues to you. Please see answers to your questions below.

**Mortgage Origination and Servicing - is the topic of concern**

**QUESTION RESPONSES:**

**Question 11: Response:**

There are significant gaps in consumer financial protections that must be filled by strengthening the Bureau's regulation. Foremost, regulation cannot be fulfilled by just relying on consumer complaints to the CFPB. The CFPB is not able to investigate or help individuals. The CFPB cannot rely on Court decisions for individuals. The CFPB should, however, share consumer information with authorities, such as the Securities and Exchange Commission (SEC), and Attorney Generals when there are serious allegations, such as missing money, so that investigation can be properly conducted. CFPB employees must trained to recognize serious

issues and concerns. As demonstrated by our own long litigation, individual litigation is often not productive, and not available to many consumers due to cost and knowledge.

One of the foremost problems resulting from the financial crisis is lack of transparency as to the true mortgage holder/owner of loans. If one is in litigation, this information is blocked by a mortgage servicer's attorney.

Many "trusts" set up during the financial crisis were set up in violation of Regulation AB as stipulated by the SEC in 2005. That is, the "ultimate pool" was segregated into separate pools and Real Estate Mortgage Investment Conduits (REMICs) under a "title series" name – all in violation of Regulation AB. Some of these segregated pools were not offered for security sale, but, rather retained by the Depositor and/or sold to a third party (again, a violation). This eliminated the role of a fiduciary trustee demanded by trust law across the country, and left borrowers with no mortgage holder and only a servicer who fails to abide by RESPA, and the Fair Debt Collection Practices Act (FDCPA). Yet the mortgage servicer fails to record itself in County Registrar's Offices across the country. The result is invalid property title across the country, and a system that invites fraud for the transfer of money – unregulated, undetected, and not investigated. Regulation for servicers to be complaint with current laws must be enforced (despite any individual litigation), and current laws must be revisited to insure consumers are protected. This takes a concerted effort by all regulators, including the CFPB, to share important information with other agencies, and make sure adequate investigation is undertaken when an alert is provided to the CFPB.

Complaints to the CFPB by borrowers are often buried by the "banks" and servicers who provide no assistance and deem the complaint "closed" to the CFPB. The CFPB should not accept such bank and/or non-bank failure to comply.

**Question 12:** It is not so much "ambiguity or inconsistency" in regulations. It is the lack of coordination with regulators that is important. While many regulators have been informed of our situation (missing money), and other very serious situations, there is no coordination among regulators to investigate. Before the CFPB was originated, borrowers could go their state Department of Justice for help. This is no longer the case. The SEC has been informed of the problems of the securitization of the financial crisis, but there has been no coordination to cease the unscrupulous practices of the servicers, that continue to date, to millions of homeowners. It is not that regulations do not exist. It is the inconsistency of federal agencies to work together to resolve very serious issues. A borrower must ask oneself: "What good is any agency or any regulator if nothing is done to control the bad practice of mortgage servicers and banks?"

Moreover, the role of a mortgage servicer is not defined by any regulation, or the CFPB. Is the mortgage servicer the mortgage holder? Is the mortgage servicer just a servicer for the mortgage holder? Is the mortgage holder the trustee for claimed securitized trust, as defined by American trust law? If not – why not? Why is deviation from the law acceptable? Even if one borrower is successful in a Court to get these answers, this will not affect millions of others who have no access to a Court, or do not understand why they should even be in Court.

Regulation should be strengthened to define “modifications” and mortgage holder. There is no common ground for how these modifications are decided, executed, or recorded for title (note – we have never had a modification, but internal documents state otherwise). Homeowners are left in the dark. With the raging pandemic, this problem will only increase in intensity.

**Question 13:**

Regulations have failed to keep up with the major issues and problems of mortgage servicing especially with non-bank servicers. No borrower should ever be placed in the position of not knowing who owns and “holds” their mortgage. People now fear “Lender.” This too will intensify given pandemic repercussions.

**Question 14:**

This depends on the size of the industry. The mortgage market is huge, and, in many cases, is the sole asset of Americans. This is not just about “data furnishers.” This is about protection of the people and our country.

**Question 15:**

There appears to be little cooperation among agencies. More clarity is needed. Further, while we applaud the CFPB and Florida Attorney General legal action against Ocwen Loan Servicing and PHH Mortgage, information has been disclosed to the CFPB that goes beyond their allegations. This information is supported by evidence. This information must be shared with the SEC, and other state Attorney Generals, and, possibly the Federal Bureau of Investigation. After the financial crisis, Dodd Frank made many regulatory changes that protect future borrowers. However, the consequence of the financial crisis remains rampant for millions of Americans. We cannot move forward with new legislation or regulation until we fully address and understand what truly went on during the years of financial fraud, and continues to go to present date. This must be coordinated and addressed.

**Question 16:**

Given the shared responsibility of many agencies, a single source of authority would enhance consumer welfare. The CFPB should be in the position to be that source of authority, and, when necessary, direct matters to the appropriate authority for enforcement. Consumer rights cannot be defended by the CFPB. However, the CFPB is their source of contact. We need to strengthen CFPB authority, clarity, and control. One cannot call the CFPB for a question and be told: “We do not know, contact an attorney.” This is not for and by the people.

**Question 17:**

Consumers must be confident that their concerns/complaints are not “buried” by the CFPB accumulates numerous similar complaints that demand the CFPB act. CFPB representatives are not trained to “connect” similar complaints. Nevertheless, missing money is a serious allegation in which the CFPB should have immediately recognized and forwarded to other authorities to

investigate. This is not only a protection for consumers, but, also, a protection against money laundering and other fraud that can cripple our country's ability to defend itself and function as a nation. The costs and benefits are essential to our country's health as a whole. Better training and coordination is essential.

**Question 18:**

As long as credit unions and/or community banks comply with the fundamentals of the law – clearly set forth by those in authority (not reliant upon individual courts) – additional regulation should not be necessary. Clarity is essential. Additional regulation is necessary when there is no adherence or coordination. There is currently no authority to even explain the nuances of non-compliances – other than a questionable court which is not available to all due to the cost.

**Question 19:**

There is no larger or more important market than the mortgage industry. That industry must now be the focus. Other industries will follow. And, it must address not only the future, but the ills of the past that continue to harm millions across the country.

**Question 20:**

Disclosures are overrated. Many do not understand the complexities. They pay their bills until something, unplanned, goes wrong. When that happens, the consumer must be treated fairly and with laws that protect them. The FDCPA clearly states that the party to whom the “debt is currently owed” must be disclosed. This rarely happens. The FDCPA statute of limitations is only one year. Many do not discover fraud until much later. This needs to be changed. Debt buyers and attorneys will use old “creditors” because they believe the borrower will recognize that name. This is false and non-compliant. If the borrower actually knew who the real creditor is, they could directly negotiate to help get them back on track. Again, it is not so much new regulation that is needed, but, rather, first compliance with given law. If “currently owed” must further described, then it should be clarified by the CFPB, or changed by Congress to insure compliance.

**Question 21:**

First the CFPB must recognize non-compliance, and the CFPB should not “File Away” the complaint with no resolution. We understand that is a huge task. However, certain complaints should be held to highest accountability and priority. They should be immediately shared with other federal agencies. If the complainant is wrong, they should then be told so. NO one should ever have to battle serious allegations in a Court of Law for fifteen years. Moreover, no consumer, or bank, or non-bank, litigation should block compliance with the law, or a satisfactory response from the CFPB. The people have nowhere else to turn.

**Question 22:**

The optimal mix of regulation depends upon the gravity of the complaint. CFPB representatives (all very polite) should be trained to recognize the gravity of the contents of a complaint and act accordingly to share with other federal agencies.

**Question 23:**

The efficacy of the Federal Consumer Financial protections is best measured by adequate training of representatives to recognize serious complaints and take immediate action. No one should have to battle serious violations of the law and missing money on their own – especially not for fifteen years. This is destructive to the people and society in whole. We the people rely upon the U.S. Government and federal agencies to protect us. If we are wrong – stop us dead in our tracks and say why. Do not hide behind closed doors that fail to explain and decipher regulation that should be clear and available to all. To fail to do so – is to fail our country.

Thank you,

The image shows two handwritten signatures. The first signature is on the left, appearing to be 'Ralph Schiano'. The second signature is on the right, appearing to be 'Eleanor Schiano'. Both signatures are written in a cursive, flowing style.

Ralph and Eleanor Schiano