



**Testimony of
Shirley Jones Burroughs
Before the Subcommittee on Administrative and Commercial Law
of the
Committee on the Judiciary
U.S. House of Representatives
May 1, 2007**

I am Shirley Jones Burroughs and I reside in Gastonia, North Carolina with my husband and two children, ages 16 and 19. My husband and I have worked all our lives to provide for our family. My husband is a truck mechanic and I work for an insurance company. We purchased our home in December, 1999. Our joint gross income for 2004 was \$92,745.00 including \$5,931 we withdrew from our retirement plans to make debt payments. In 2005 our gross income was \$74,288.00 for my husband and \$23,392.00 for me. In 2006 our gross income was \$55,681.01 for my husband, \$28,220.00 for me, and \$4,270.00 withdrawal from his retirement. We hated to dip into our retirement savings, but we were trying to keep up with our debts and avoid bankruptcy.

When we purchased our home, we entered into a first mortgage with Homecomings Mortgage and a second mortgage with EMMCO THE MORTGAGE SERVICE STATION INC., which was assigned to Associates Financial Services of America, Inc. ("Associates"). In March, 2000, and approximately four months after we purchased our residence, Associates contacted us and offered to refinance our mortgages. They stated that we could lower our payments through refinancing and consolidate all of our debts.

On March 30, 2000 we refinanced both mortgages through Associates. Our new first mortgage in the sum of \$109,730.75 was used to pay the balance due to Homecomings Mortgage of \$91,808.19 and the balance due to Associates of \$16,374.12. The second mortgage in the sum of \$10,199.98 was used to pay other debts including \$2,888.55 to American General and \$6,396.21 to CitiFinance. We received no cash proceeds from the refinancings. The new first mortgage payment was \$1,170.22 per month with interest at 12.49 percent per annum and the new second mortgage payment was \$214.37 with interest at 18 percent per annum.

On June 29, 2001 we again refinanced our second mortgage with CitiFinancial Services, Inc., (formerly Associates). In this refinancing our new loan amount was \$9,990.24 with an Annual Percentage Rate of 15.45 percent. Our first payment was \$184.86, and then we had 29 scheduled payments of \$179.94 and then 90 more scheduled payments of \$153.07. To my knowledge, we received no cash proceeds from this refinancing.

On August 16, 2002 we once again refinanced our two mortgages with CitiFinancial. These refinancings were done upon CitiFinancial's promise that our monthly payments would be reduced. In the 2002 first mortgage we financed \$113,938.76 with interest at an annual percentage rate of 11.95 percent, a first payment of \$1,621.41 and 359 payments of \$1,167.57. \$113,630.87 of the cash proceeds of this loan were paid to CitiFinancial. In the 2002 second mortgage we financed \$10,350.57 with interest at an annual percentage rate of 14.61 percent payable in 30 scheduled payments of \$186.43 and then 90 more scheduled payments of \$150.11. The cash proceeds of this second mortgage refinancing went to payoff the June 29, 2001 CitiFinancial second mortgage. Again, we received no cash proceeds from either refinancing. All of the amounts added to our mortgages went to the fees and charges in the multiple refinancings.

In 2006 we began to fall behind in our mortgage payments to CitiFinancial mainly because I was unemployed for some time. On November 22, 2006 CitiFinancial commenced a foreclosure proceeding in the State Court to foreclose upon the first mortgage. The foreclosure sale date was scheduled for January 24, 2007.

After exploring available options to try to save our home from foreclosure, we found that our only real option was to file a Chapter 13 bankruptcy case. Through the Internet, we found our bankruptcy attorney, Mr. Wayne Sigmon. He explained that we could file a Chapter 13 case and cure the payment arrears on the first mortgage to CitiFinancial in monthly court payments over a 60 month period while continuing to make our regular monthly payments due to CitiFinancial after the filing of our bankruptcy case directly to CitiFinancial. As to the second mortgage, he advised that we could "lien strip" the second mortgage through a lawsuit he would file in our bankruptcy case against CitiFinancial since the market value of our residence was less than the principal balance due upon the first mortgage. In this way the second mortgage would no longer be a lien upon our residence and the balance due would be treated as unsecured debt in our Chapter 13 case.

Our Chapter 13 case was filed on January 22, 2007. Our plan called for monthly payments to the Chapter 13 Trustee of \$1,050.00 plus direct payments to CitiFinancial "outside of the plan" of \$1,160.00. These payments were feasible because our combined monthly net income was \$4,332.64 which consisted of \$3,132.65 from my husband's job and \$1,200.00 from my unemployment compensation.

In our Chapter 13 case we scheduled CitiFinancial's first mortgage arrears to be \$5,800.00 which was 5 monthly payments of \$1,160.00 each. We scheduled the outstanding principal balance to be \$132,802.53. Both of these figures came from monthly statements we had received from CitiFinancial. At our Chapter 13 meeting of creditors, we were shocked to learn that CitiFinancial filed a proof of claim in our case alleging that the first mortgage arrears as of our Chapter 13 filing date were \$14,789.03 and that the total balance due is \$135,218.81. A copy of this proof of claim is attached hereto as Exhibit "A". Obviously, if our arrears are \$14,789.03, our Chapter 13 payments will increase significantly. Our attorney advised us that mortgage servicers often inflate claims in Chapter 13 cases and that he would review the documents and file a formal objection to this claim.

Our attorney has now reviewed our CitiFinancial mortgage documents and he has objected to the proof of claim. He has advised that our mortgage is a classic example of predatory mortgage lending. The mortgage interest is compounded on a daily rather than monthly basis. This is why we now owe somewhere between \$132,000 and \$135,000 on the mortgage while the original amount financed was \$113,938.76. He advised that he has seen this type of interest computation in numerous CitiFinancial mortgages. Attached hereto as Exhibit "B" is an amortization schedule that shows how our mortgage balance would have been reduced if our loan had interest compounded monthly rather than daily. To my knowledge, we were never warned by CitiFinancial about the possibility that we would make numerous payments on our loan and still owe substantially more than we borrowed.

Our attorney has also advised that our mortgage contains an arbitration provision. CitiFinancial never explained to us how an arbitration provision works and I had never even heard of arbitration until my attorney brought it to my attention.

On March 22, 2007 my husband, a member of the Army reserve, was called to active duty and he has been deployed to Iraq. His net monthly military pay after taxes is \$1,141.75 so that our combined monthly income has dropped from \$4,332.64 to \$3,024.27, a difference of \$1,307.97 per month. With this decrease in income, I cannot afford to make both my Chapter 13 Trustee payments and my monthly mortgage payments to CitiFinancial. My attorney has filed a motion in the bankruptcy court requesting that, pursuant to the Servicemembers Civil Relief Act, the interest rate on our secured debts be reduced to 6 percent per annum while my husband is on active duty. If this motion is allowed, my direct monthly payment to CitiFinancial should be \$767.07 (Exhibit "C" hereto), plus a monthly payment upon the alleged \$14,789.03 arrears through the Trustee of \$285.91 (Exhibit "D"), and an approximately 5% Trustee's commission on the arrearage payment (\$14.29) for a total monthly payment to CitiFinancial of \$1,067.27.

Even this payment will be a real struggle for us to make now that we have reduced income and greater expenses due to my husband's service in Iraq. If, as proposed by the consumer groups, the Bankruptcy Code allowed us to reamortize the CitiFinancial mortgage at a 6 percent per annum fixed rate over a thirty year term from the bankruptcy petition date, even with CitiFinancial's alleged balance due of \$135,218.81, the payment would be \$810.71 (Exhibit "E"), a monthly savings of \$256.56. My children and I could dearly use this money to live on.

Respectfully submitted
Shirley Jones Burroughs