

Congress of the United States
Washington, DC 20515

November 25, 2014

The Honorable Eric H. Holder, Jr.
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Dear Attorney General Holder:

We request information about the Justice Department's mortgage-lending lawsuits and whether they actually deliver redress to consumers genuinely harmed.

Relief for these consumers is long overdue, yet the Justice Department's record settlements have left homeowners disappointed.¹ It seems that the alleged victims are not the primary beneficiaries of these multi-billion dollar settlements. Instead, the terms in the Justice Department's two latest settlements² look less like consumer relief and more like a scheme to funnel money to politically favored special interest groups.

First, the settling banks must donate a minimum of \$150 million to activist groups like La Raza and NeighborWorks, which funds a national network of community organizers. Second, for each dollar donated above the minimum, banks earn two dollars' worth of credit against their overall consumer relief commitment. By contrast, direct forms of consumer relief, such as loan modifications, earn only dollar-for-dollar credit. This makes donations to activist groups far more attractive to banks than providing direct relief to injured consumers. As a result, the settlements appear to serve as a vehicle for funding activist groups rather than as a means of securing relief for consumers actually harmed.

On July 14, 2014, the Justice Department announced a \$7 billion mortgage-lending settlement with Citigroup that included \$2.5 billion in "consumer relief." In its press release touting the settlement, the Department described the relief as "innovative" and as going beyond the "principal reductions and loan modifications . . . built into previous resolutions."³ The details of this relief were contained in Annex 2 of the agreement. Menu item 4F of the annex requires a minimum \$10 million in donations to HUD-approved "housing counseling agencies," which

¹ Puneet Kollipara, *Wonkbook: BofA's record settlement may leave homeowners disappointed*, WASH. POST, Aug. 22, 2014, available at <http://www.washingtonpost.com/blogs/wonkblog/wp/2014/08/22/wonkbook-bofas-record-settlement-may-leave-homeowners-disappointed/>.

² See Settlement Agreement between Department of Justice and Bank of America Corp. (Aug. 21, 2014), available at <http://www.justice.gov/iso/opa/resources/3392014829141150385241.pdf>; Settlement Agreement between Department of Justice and Citigroup, Inc. (July 14, 2014), available at <http://www.justice.gov/iso/opa/resources/471201471413656848428.pdf>.

³ Department of Justice Office of Public Affairs, Justice Department, *Federal and State Partners Secure Record \$7 Billion Global Settlement with Citigroup for Misleading Investors About Securities Containing Toxic Mortgages*, July 14, 2014, available at <http://www.justice.gov/opa/pr/justice-department-federal-and-state-partners-secure-record-7-billion-global-settlement>.

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include La Raza and NeighborWorks.⁴ Menu items 4D and 4E require an additional minimum \$40 million in donations for housing-related organizations, including “legal aid” and community development “non-profits.”⁵

For every dollar donated above the \$50 million minimum, Citigroup will earn two dollars’ worth of credit against its \$2.5 billion consumer relief commitment.⁶ By contrast, for direct forms of consumer relief, like principal forgiveness, the base credit is merely dollar-for-dollar.⁷

Nearly identical terms appear in the Department’s August 21, 2014 settlement with Bank of America (BoA). This settlement, which the Department has described as “historic,” demands a minimum of \$100 million in donations to housing-related organizations, including counseling agencies, “legal aid” organizations and community development “non-profits.”⁸ For every dollar donated above the minimum, BoA’s credit against its overall \$7 billion consumer relief obligation is two-for-one.⁹ Again, the base credit for direct forms of consumer relief is just dollar-for-dollar.¹⁰

These terms appear unprecedented. The Department’s November 2013 mortgage-lending settlement with J.P. Morgan Chase, for example, included only direct forms of consumer relief.¹¹ Certain previous agreements, including during the George W. Bush Administration, provided that any funds remaining after all consumer injury had been redressed could go to third-party groups. But that is far different from earmarking mandatory minimum donations to activist groups as central provisions of settlements, and giving banks twice the incentive to funnel settlement funds to third-party groups *instead* of to harmed consumers.

In light of these concerns, we request that the Department conduct a briefing for the Judiciary and Financial Services Committees as soon as possible on the foregoing settlement terms and ask that you provide the following answers and information before the briefing and no later than December 9, 2014:

1. Identify the individuals who were involved in making the decision to depart from the J.P. Morgan Chase settlement format and add the mandatory donations and two-for-

⁴ See Settlement Agreement between DOJ and Citigroup, *Annex2 – Consumer Relief*, July 14, 2014 (noting, “[t]he list of HUD-approved housing counseling agencies is available on the HUD website at <http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm>.”).

⁵ Settlement Agreement between DOJ and Citigroup, *Annex2 – Consumer Relief*, July 14, 2014, Menu Items 4D, 4E, 4F, available at <http://www.justice.gov/iso/opa/resources/649201471413721380969.pdf>.

⁶ *Id.*

⁷ *Id.* Menu Item 1.

⁸ Settlement Agreement between DOJ and Bank of America, *Annex2 – Consumer Relief*, Menu Items 3E, 3F, 3G, Aug. 21, 2014, available at <http://www.justice.gov/iso/opa/resources/8492014829141239967961.pdf>.

⁹ *Id.*

¹⁰ *Id.* Menu Item 1.

¹¹ Settlement Agreement between DOJ and J.P. Morgan Chase, *Annex2 – Consumer Relief*, November 19, 2013, available at <http://www.justice.gov/iso/opa/resources/64420131119164759163425.pdf>.

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one credit terms to the Citigroup and BoA settlements, and in the subsequent implementation of those settlement terms.

2. Were non-profits that stood to gain involved in any manner in that decision? If so, which ones and to what extent?
3. Were any White House officials involved in the decision? If so, who and to what extent?
4. Did Citigroup or BoA ever receive any formal or informal guidance from the Department or the White House regarding which particular groups should receive donations?
5. Please provide all communications relating to what became the "Community Reinvestment and Neighborhood Stabilization" provisions in the Citigroup and BoA settlements. Please also provide any communications discussing similar terms as part of the J.P. Morgan Chase settlement discussions.

Thank you for your prompt attention to this request.

Sincerely,



Bob Goodlatte
Chairman
Committee on the Judiciary



Jeb Hensarling
Chairman
Committee on Financial Services