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United States Senate

SELECT COMMITTEE ON ETHICS
HART SENATE OFFICE BUILDING, ROOM 220
SECOND AND CONSTITUTION AVENUE, NE
WASHINGTON, DC 20510–6425

August 7, 2009

The Honorable Christopher J. Dodd
United States Senate
Washington, D.C. 20510

Dear Senator Dodd:

The Select Committee on Ethics informs you that after an extensive, year-long investigation it is dismissing a June 13, 2008 complaint from Citizens for Responsibility and Ethics in Washington ("CREW"), which requested that the Committee investigate whether mortgages you obtained from Countrywide Financial ("Countrywide") violated the Senate Gifts Rule. In its complaint, CREW cited a June 12, 2008 article published in *Portfolio.com*.

While the Committee finds no substantial credible evidence as required by Committee rules that your Countrywide mortgages violated Senate ethics rules, the Committee does believe that you should have exercised more vigilance in your dealings with Countrywide in order to avoid the appearance that you were receiving preferential treatment based on your status as a Senator.

To reach the conclusion that you did not violate ethics rules, the Committee carefully examined whether your conduct violated the Senate Gifts Rule, which states: "No Member, officer, or employee of the Senate shall knowingly accept a gift except as provided in the rule." The rule provides an exception for opportunities and benefits "in the form of loans from banks and other financial institutions on terms generally available to the public," thereby allowing Senators to accept opportunities offered only to a group that is not defined on the basis of one's status as a Senate employee. The Committee also considered whether your conduct violated Senate Rule 37, which prohibits Senators from using their official position for personal gain.

Scope of Committee Inquiry – 18,000 Pages of Documents

The Committee treated this matter very seriously and took every possible step during the course of its year-long inquiry to obtain information from multiple sources, including issuing subpoenas for detailed contemporaneous documents and testimony, while needing to be attentive to the concerns raised by parallel investigations.

To that end, the Committee carefully reviewed more than 18,000 pages of documents from Countrywide and its former employees, which included information about its V.I.P. loan unit, the "Friends of Angelo" program, and the details of your mortgages and dealings with the company from 1999 to the time of the complaint. The Committee also conducted lengthy

depositions with numerous former Countrywide employees, including the account executive who originated your 2003 mortgages that are the subject of CREW's complaint and the underwriter who reviewed your loan files. Finally, the Committee sought, received, and examined loan files and detailed explanations from you about your dealings with Countrywide.

Countrywide's V.I.P. Loan Unit and the Friends of Angelo Program

While it was not the primary focus of the Committee's investigation to determine the breadth and scope of Countrywide's V.I.P. program, the Committee nevertheless carefully undertook to ascertain how the V.I.P. program worked in order to determine whether your conduct violated Senate rules. Through its inquiry, the Committee learned about the purpose and policies of the V.I.P. and "Friends of Angelo" programs. It appears the V.I.P. loan unit was initially established for the purposes of originating, processing, and funding home loans as a courtesy to senior-level employees and V.I.P. customers, but it increasingly grew in scope and size. A large subset of V.I.P. loans referred by Angelo Mozilo, former Countrywide C.E.O., were known as the "Friends of Angelo" or F.O.A. During the mortgage boom that occurred from late 2002 through 2004, the V.I.P. loan unit handled thousands of loans worth billions of dollars for a very broad spectrum of individuals, large numbers of whom had never met, let alone befriended, Mr. Mozilo.

Overall, it appears that V.I.P.s were often offered quicker, more efficient loan processing and some discounts. However, it also appears that all V.I.P. loans, including F.O.A loans, were required to meet the same underwriting standards and conditions for resale on the secondary market as non-V.I.P. loans. Furthermore, there is evidence on the record that the discounts offered to V.I.P.s and F.O.A.s were not the best deals that were available at Countrywide or in the marketplace at large. In sum, participation in the V.I.P. or F.O.A. programs did not necessarily mean that borrowers received the best financial deal available either from Countrywide or other lenders.

Senator Dodd's Response to the Committee

The Committee asked you for specific, detailed, and thorough responses, with documentary support where available, to numerous questions regarding your mortgages and participation in a V.I.P. program. You informed the Committee that you eventually became aware that you had been placed in a V.I.P. program. You told the Committee that you inquired with Countrywide as to what the V.I.P program was and were told that it offered heightened attention to service quality. You also said that you did not become aware of the "Friends of Angelo" program until June 2008, have never met Angelo Mozilo, and never communicated with him about any of your loans.

You provided the Committee with the loan files for the mortgages and a report, dated July 22, 2008, prepared by CrossCheck Compliance LLC, entitled "Review of the Terms and Conditions of Certain Residential Mortgage Loans." The report concludes that, "based on the market data we analyzed, we find that the terms and conditions that the [Dodds] received for the two loans were consistent with those that any borrower, who possessed similar credit, income, asset, and equity positions, would have received during the highly active refinance market that

existed during the first half of 2003." You told the Committee that you sought three competing offers for your 2003 refinances and received similar rates to the ones offered by Countrywide. Furthermore, you stated that it was your practice to seek competing offers for all the loans you sought.

No Credible Evidence of an Ethics Rule Violation

After examining the extensive record before it, the Committee found no credible evidence that you knowingly accepted a gift, including a loan not available to the public.

First, your mortgages were made in a commercially-reasonable manner based on terms and conditions available to borrowers with similar loan profiles. While your Countrywide loans were handled through the V.I.P. loan unit and designated as F.O.A. loans, the service you received was available to thousands of other non-Senate customers at Countrywide and the loans you received appear to have been available industry-wide to borrowers with comparable loan profiles. It appears your loans met all applicable underwriting standards and that you and your wife were excellent loan candidates and established Countrywide customers in good standing. You sought competing mortgage offers from other lenders that offered terms substantially similar to the ones Countrywide provided. There is no evidence that the interest rates for your Countrywide mortgages were below prevailing market rates.

Second, there is no credible evidence that you sought or knowingly received any financial benefits not available to other borrowers with similar loan profiles. The Committee has found no evidence that you or your wife ever asked for special treatment or that anyone ever communicated to you or your family that you were receiving specific discounts or other special treatment not available to other borrowers because of your status as a Senator.

Third, there is no credible evidence that you used your official position for personal gain. The Committee found no evidence that you fully understood the scope of the V.I.P. program, knew that you were in the "Friends of Angelo" program, or attempted to use your status as a Senator to receive loan terms not available to the public.

Guidance for You and the Senate Community at Large

Although the Committee dismisses this matter after finding no violations of Senate rules, it believes this case offers important guidance for you, the Senate community, and the Committee in order to avoid the appearance of preferential treatment in the future.

The Committee has found no evidence that you sought entrance into the V.I.P. loan unit. However, once you became aware that your loans were in fact being handled through a program with the name "V.I.P.," that should have raised red flags for you and compelled you to find out exactly how you became a member of the V.I.P. unit, whether you may have been offered treatment based on your official position, and very specifically if you were receiving preferential treatment not available to other borrowers with similar loan profiles.

The Committee also recognizes that it has not previously offered specific guidance to Senators, officers, and employees on the matters they should consider when negotiating mortgages and other financial transactions. The Committee should proactively provide more guidance to the Senate community about issues surrounding mortgage negotiations and encourages Senators, officers, and employees to seek prior guidance concerning participation in any programs like the one addressed here.

Sincerely,

Barbara Boxer
Chairman

Johnny Isakson
Vice Chairman

Mark Pryor, Member

Pat Roberts, Member

Sherrod Brown, Member

James Risch, Member